

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

JOHN J. AQUINO,)	
CHAPTER 7 TRUSTEE)	Case #1:21-cv-01355-JSR
By Its Assignee,)	
Convergent Distributors of Texas, LLC)	
)	
Plaintiff,)	
)	
v.)	
)	
ALEXANDER CAPITAL, LP)	
&)	
Its Managing Partners:)	
JOSEPH AMATO,)	
ROCCO GUIDICIPIETRO, and)	
NESA MANAGEMENT, LLC)	
)	
Defendants)	

**DECLARATION OF WILLIAM C. RAND, ESQ.
IN SUPPORT OF PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT**

EXHIBIT 15

9-29-21 Dep. Testimony of R. Guidicipietro

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September 29, 2021

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<p>Page 1</p> <p>1</p> <p>2 UNITED STATES DISTRICT COURT</p> <p>3 SOUTHERN DISTRICT OF NEW YORK</p> <p>4 -----x</p> <p>5 JOHN J. AQUINO, CHAPTER 7 TRUSTEE</p> <p>6 By Its Assignee,</p> <p>7 Convergent Distributors of Texas, LLC,</p> <p>8 Plaintiff,</p> <p>9 -against- Case #1:21-cv-01355-JSR</p> <p>10 ALEXANDER CAPITAL, LP & Its Managing</p> <p>11 Partners:</p> <p>12 JOSEPH AMATO, ROCCO GUIDICIPIETRO, and</p> <p>13 NESA MANAGEMENT, LLC,</p> <p>14 Defendants.</p> <p>15 -----x</p> <p>16 VIDEOTELECONFERENCED DEPOSITION OF:</p> <p>17 ROCCO GUIDICIPIETRO</p> <p>18 New York, New York</p> <p>19 Wednesday, September 29, 2021</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>Reported by:</p> <p>24 Aydil M. Torres, CSR</p> <p>JOB NO. J7461932</p> <p>25</p>	<p>Page 3</p> <p>1</p> <p>2</p> <p>3 A P P E A R A N C E S:</p> <p>4</p> <p>5</p> <p>6 SCHLICHTMANN LAW</p> <p>7 Attorney for Plaintiff</p> <p>8 359 Hale Street</p> <p>9 Beverly, Massachusetts 01915</p> <p>10 BY: JAN SCHLICHTMANN, ESQ.</p> <p>11</p> <p>12</p> <p>13 HOLCOMB & WARD, LLP</p> <p>14 Attorneys for Defendants</p> <p>15 3455 Peachtree Road, NE, Suite 500</p> <p>16 Atlanta, Georgia 30326</p> <p>17 BY: BRYAN M. WARD, ESQ.</p> <p>18</p> <p>19</p> <p>20 ALSO PRESENT:</p> <p>21 George B. Ellis, Videographer</p> <p>22 Holly Cole, Esq.</p> <p>23 Aaron Wright, Esq.</p> <p>24</p> <p>25</p>
<p>Page 2</p> <p>1</p> <p>2</p> <p>3</p> <p>4 September 29, 2021</p> <p>5 10:07 a.m.</p> <p>6</p> <p>7</p> <p>8 VTC deposition of</p> <p>9 ROCCO GUIDICIPIETRO, held at 17</p> <p>10 State Street, New York, New York,</p> <p>11 pursuant to Notice, before Aydil M.</p> <p>12 Torres, a Notary Public of the</p> <p>13 State of New York.</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>Page 4</p> <p>1</p> <p>2</p> <p>3 S T I P U L A T I O N S</p> <p>4</p> <p>5 IT IS HEREBY STIPULATED AND AGREED</p> <p>6 by and between the attorneys for the</p> <p>7 respective parties herein, that filing,</p> <p>8 sealing and certification be and the</p> <p>9 same are hereby waived.</p> <p>10</p> <p>11 IT IS FURTHER STIPULATED AND AGREED</p> <p>12 that all objections, except as to the</p> <p>13 form of the question shall be reserved</p> <p>14 to the time of the trial.</p> <p>15</p> <p>16 IT IS FURTHER STIPULATED AND AGREED</p> <p>17 that the within deposition may be signed</p> <p>18 and sworn to before any officer authorized</p> <p>19 to administer an oath, with the same force</p> <p>20 and effect as if signed and sworn to before</p> <p>21 the Court.</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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<p style="text-align: right;">Page 5</p> <p>1</p> <p>2 THE VIDEOGRAPHER: We are</p> <p>3 now on the record. The time is</p> <p>4 10:07 a.m., Eastern standard time,</p> <p>5 on September 29, 2021.</p> <p>6 This begins the video</p> <p>7 conference deposition of Rocco</p> <p>8 Guidici Pietro, taken in the matter</p> <p>9 of John J. Aquino, Chapter 7</p> <p>10 Trustee versus Alexander Capital,</p> <p>11 LP, and managing partners, Joseph</p> <p>12 Amato, Rocco Guidici Pietro, and</p> <p>13 Nesa Management, LLC, filed in the</p> <p>14 Southern District Court -- sorry,</p> <p>15 filed in the United States District</p> <p>16 Court, Southern District of New</p> <p>17 York, case number is</p> <p>18 1:21-cv-01355-JSR.</p> <p>19 My name is George Ellis. I</p> <p>20 am your remote videographer. The</p> <p>21 court reporter is Aydil Torres. We</p> <p>22 are representing Esquire Deposition</p> <p>23 Solutions.</p> <p>24 As a courtesy, will everyone</p> <p>25 that's not speaking mute</p>	<p style="text-align: right;">Page 7</p> <p>1</p> <p>2 your address for the record.</p> <p>3 THE WITNESS: 6 Haven Hill</p> <p>4 Road, Hamburg, New Jersey 07419.</p> <p>5 MR. SCHLICHTMANN: May I</p> <p>6 begin? Yes. Thank you.</p> <p>7 EXAMINATION BY</p> <p>8 MR. SCHLICHTMANN:</p> <p>9 Q. Mr. Guidici Pietro, first of all,</p> <p>10 thank you very much for agreeing to attend</p> <p>11 today's deposition, and we may experience</p> <p>12 some technical difficulties, and I will ask</p> <p>13 for your patience. We will try and do as</p> <p>14 best we can. I guess we are unfamiliar with</p> <p>15 the technology, or not familiar enough.</p> <p>16 Also, Mr. Guidici Pietro, I want you to know</p> <p>17 that if at any time I ask you a question, you</p> <p>18 don't understand anything about the question</p> <p>19 or you need me to restate it, rephrase it,</p> <p>20 whatever, feel free to do that, and I will</p> <p>21 endeavor to try and do that, so that it's</p> <p>22 completely understandable to you.</p> <p>23 If you need to take a break, even</p> <p>24 if a question is pending, you need to -- for</p> <p>25 whatever reason, the reason is not really</p>
<p style="text-align: right;">Page 6</p> <p>1</p> <p>2 yourselves, and please remember to</p> <p>3 unmute your audio when you are</p> <p>4 ready to speak.</p> <p>5 Counsel, will you please</p> <p>6 state your name and who you</p> <p>7 represent, after which the court</p> <p>8 reporter will swear in the witness.</p> <p>9 MR. SCHLICHTMANN: Jan</p> <p>10 Schlichtmann. I represent the</p> <p>11 Plaintiff.</p> <p>12 MR. WARD: Bryan Ward of</p> <p>13 Holcomb and Ward for Defendants,</p> <p>14 and along with me are Aaron Wright</p> <p>15 and Holly Cole, also of Holcomb and</p> <p>16 Ward.</p> <p>17 R O C C O G U I D I C I P I E T R O ,</p> <p>18 called as a witness, having been</p> <p>19 duly sworn by a Notary Public, was</p> <p>20 examined and testified as follows:</p> <p>21 THE REPORTER: State your</p> <p>22 full name for the record.</p> <p>23 THE WITNESS: Rocco</p> <p>24 Guidici Pietro.</p> <p>25 THE REPORTER: Please state</p>	<p style="text-align: right;">Page 8</p> <p>1 Rocco Guidici Pietro</p> <p>2 important. If you have to talk to your</p> <p>3 lawyer, if you just need to take a break, if</p> <p>4 you need to think about things, whatever it</p> <p>5 happens to be, please feel free to do it.</p> <p>6 There will be no inferences taken by the</p> <p>7 Plaintiff regarding that. All we care about</p> <p>8 is that you are comfortable with your answer.</p> <p>9 So as far as the record is concerned, what</p> <p>10 we're making reference to this record -- it's</p> <p>11 going to be to the question and answer and</p> <p>12 not whether there was a break or a time, you</p> <p>13 know, asked by the witness, okay? So I just</p> <p>14 --</p> <p>15 A. Okay.</p> <p>16 Q. -- want you to feel comfortable</p> <p>17 with your answer.</p> <p>18 A. Okay.</p> <p>19 Q. Do we have that understanding?</p> <p>20 We have that understanding, then,</p> <p>21 among us?</p> <p>22 A. Yes.</p> <p>23 Q. Okay, great. All right.</p> <p>24 Mr. Guidici Pietro, you have a</p> <p>25 present relationship with Alexander Capital;</p>

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<p style="text-align: right;">Page 9</p> <p>1 Rocco Guidici Pietro</p> <p>2 is that correct?</p> <p>3 A. Yes.</p> <p>4 Q. What's that relationship?</p> <p>5 A. I am the chief operating officer.</p> <p>6 Q. And how long have you been the</p> <p>7 chief operating officer?</p> <p>8 A. About 7 years.</p> <p>9 Q. And do you know was the -- do you</p> <p>10 know the year, whether it was 2012 or 2013,</p> <p>11 when you became the chief operating officer</p> <p>12 of Alexander Capital?</p> <p>13 A. I believe it was 2013.</p> <p>14 Q. Do you remember the season?</p> <p>15 A. I don't.</p> <p>16 Q. Is it more likely the winter,</p> <p>17 spring, as opposed to the summer, fall?</p> <p>18 A. More towards the end of the year.</p> <p>19 Q. Okay. All right.</p> <p>20 Now, your -- do you have an</p> <p>21 interest, an ownership interest in Alexander</p> <p>22 Capital at present?</p> <p>23 A. No, I do not.</p> <p>24 Q. Do you have an indirect ownership</p> <p>25 interest in Alexander Capital, LP?</p>	<p style="text-align: right;">Page 11</p> <p>1 Rocco Guidici Pietro</p> <p>2 documents that will be able to help your</p> <p>3 recollection about the exact dates. This is</p> <p>4 not a quiz or a test. I am just asking for</p> <p>5 your general memory at this point. The --</p> <p>6 so, in fact, let me show you a document, all</p> <p>7 right.</p> <p>8 A. Excuse me, I have a box on screen</p> <p>9 that's telling me the meeting is being</p> <p>10 recorded. I am trying to see if I can get</p> <p>11 that off there. Oh, I got it. Okay.</p> <p>12 Q. Now can you see -- hopefully, you</p> <p>13 can see a document?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. Can you read it clearly in</p> <p>16 its present size?</p> <p>17 A. Yes, I see it fine.</p> <p>18 Q. You can, okay, great. If at any</p> <p>19 time it's too small, too big, whatever,</p> <p>20 please let us know, and we will do whatever</p> <p>21 we can to make sure you can see it; is that</p> <p>22 all right?</p> <p>23 A. It's on a 60-inch T.V., so I can</p> <p>24 see it very clear.</p> <p>25 Q. Okay, very good. You passed your</p>
<p style="text-align: right;">Page 10</p> <p>1 Rocco Guidici Pietro</p> <p>2 A. Yes, I do.</p> <p>3 Q. What --- and what is the -- how</p> <p>4 would you characterize that independent</p> <p>5 interest?</p> <p>6 A. Nesa Management, LLC.</p> <p>7 Q. All right. And are you -- what's</p> <p>8 your position in Nesa Management, LLC?</p> <p>9 That's N-E-S-A, for the court reporter.</p> <p>10 A. It's a member.</p> <p>11 Q. All right. Are you the only</p> <p>12 member?</p> <p>13 A. No. Joseph Amato.</p> <p>14 Q. Are the two of you the only two</p> <p>15 members?</p> <p>16 A. Yes.</p> <p>17 Q. And when did -- when was Nesa</p> <p>18 Management formed?</p> <p>19 A. Actually, don't know the actual</p> <p>20 year when it was formed.</p> <p>21 Q. All right. I will be showing you</p> <p>22 some documents that may help, you know,</p> <p>23 pinpoint the dates and everything. I am now</p> <p>24 just asking some general questions about your</p> <p>25 memory but I will be showing you some</p>	<p style="text-align: right;">Page 12</p> <p>1 Rocco Guidici Pietro</p> <p>2 eye test today. Great.</p> <p>3 A. Yes.</p> <p>4 Q. Thank you. I am showing you</p> <p>5 Plaintiff's Exhibit 132. And do you</p> <p>6 recognize this document at all? Before</p> <p>7 today, were you familiar with it at all?</p> <p>8 Does it look like something you</p> <p>9 have seen before?</p> <p>10 A. No, not at all.</p> <p>11 Q. All right. I will represent to you</p> <p>12 that this was part of an application to FINRA</p> <p>13 in 2015, and this was a corporate hierarchy</p> <p>14 chart that was submitted along with the</p> <p>15 application, all right?</p> <p>16 Does that help you refresh your</p> <p>17 recollection at all about this chart at all</p> <p>18 or doesn't help?</p> <p>19 A. No, not at all.</p> <p>20 Q. All right. Now, on that, you</p> <p>21 recognize your name on the top block to the</p> <p>22 left?</p> <p>23 A. Yes.</p> <p>24 Q. All right. And it -- it has you</p> <p>25 down as COO. Does "COO" stand for "chief</p>

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<p style="text-align: right;">Page 13</p> <p>1 Rocco Guidici Pietro</p> <p>2 operating officer"?</p> <p>3 A. Yes, it does.</p> <p>4 Q. Okay. And to the right is Joseph</p> <p>5 Amato, and under his name it says,</p> <p>6 "president." Do you see that?</p> <p>7 A. Yes.</p> <p>8 Q. And in 2015, is it accurate to</p> <p>9 depict yourself as the chief operating</p> <p>10 officer and Mr. Amato as the president of</p> <p>11 Alexander Capital, LP, as of August of 2015?</p> <p>12 A. I can answer for myself. I can't</p> <p>13 answer for Mr. Amato. Yes, that's accurate,</p> <p>14 as far as I am concerned.</p> <p>15 Q. But as to Mr. Amato, certainly, you</p> <p>16 were familiar with him at the time and still</p> <p>17 are, obviously, you are still in business</p> <p>18 together; is that correct?</p> <p>19 A. Yes, I am just not sure about his</p> <p>20 title at that time.</p> <p>21 Q. Okay. Do you know what titles Mr.</p> <p>22 Amato has had over the course of time you</p> <p>23 have been involved with Alexander Capital,</p> <p>24 LP, as best you can?</p> <p>25 A. No, I don't. I don't want to</p>	<p style="text-align: right;">Page 15</p> <p>1 Rocco Guidici Pietro</p> <p>2 what this chart -- who developed it, why it</p> <p>3 was made. I have no idea.</p> <p>4 Q. Okay. Well, based on your</p> <p>5 knowledge and experience with Alexander</p> <p>6 Capital, in 2015, was it accurate that Mr. --</p> <p>7 well, did you know Mr. Feinman?</p> <p>8 A. Yes, I know Mr. Feinman.</p> <p>9 Q. Okay. And it has "CEO" under Mr.</p> <p>10 Feinman's name, and that block is right under</p> <p>11 your name and Mr. Amato's name. Do you see</p> <p>12 that?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. And it says, "CEO," chief --</p> <p>15 is that your understanding, "CEO" stands for</p> <p>16 "chief executive officer"?</p> <p>17 A. That would be my understanding,</p> <p>18 yes.</p> <p>19 Q. Was it your understanding that Mr.</p> <p>20 Feinman was the chief executive officer of</p> <p>21 Alexander Capital, LP, in -- as of August of</p> <p>22 2015?</p> <p>23 A. I know he was the CEO at a certain</p> <p>24 time. I believe it was 2015, but I am not</p> <p>25 100 percent sure on the dates.</p>
<p style="text-align: right;">Page 14</p> <p>1 Rocco Guidici Pietro</p> <p>2 speculate.</p> <p>3 Q. Was it your understanding that Mr.</p> <p>4 Amato, as depicted in -- does this chart</p> <p>5 depict the relationship to each other</p> <p>6 vis-a-vis, that you were on the same level,</p> <p>7 according to this chart, as opposed to you</p> <p>8 being subordinate to Mr. Amato or Mr. Amato</p> <p>9 being subordinate to you?</p> <p>10 A. I don't know what this chart</p> <p>11 represents.</p> <p>12 Q. All right. So -- but have you seen</p> <p>13 corporate charts before like this?</p> <p>14 A. No, I have not.</p> <p>15 Q. All right. I want you to assume</p> <p>16 that this is -- the chart is trying to depict</p> <p>17 a corporate hierarchy with those at the top</p> <p>18 having supervisory responsibility to those</p> <p>19 below them, and that those below are</p> <p>20 reporting to the people above in that, you</p> <p>21 know, kind of chain of command, as depicted</p> <p>22 by the boxes in relationship to each other.</p> <p>23 All right? I want you to assume</p> <p>24 that. Is that all right?</p> <p>25 A. No, I'm not assuming. I don't know</p>	<p style="text-align: right;">Page 16</p> <p>1 Rocco Guidici Pietro</p> <p>2 Q. All right. Under his block is</p> <p>3 Timothy Stack. Did you know Mr. Stack?</p> <p>4 A. Yes.</p> <p>5 Q. All right. And did -- were you</p> <p>6 aware of the fact that Mr. -- it has under</p> <p>7 his name "CCO." Do you see that?</p> <p>8 A. Yes.</p> <p>9 Q. Do you know what "CCO" stands for?</p> <p>10 A. Yes. Chief compliance officer.</p> <p>11 Q. And was it your understanding in</p> <p>12 August of 2015, that Mr. Stack was the chief</p> <p>13 compliance officer at Alexander Capital, LP?</p> <p>14 A. I am not sure of the dates, but I</p> <p>15 know Mr. Stack was chief compliance officer</p> <p>16 for a certain period of time.</p> <p>17 Q. Now, going down further, you have</p> <p>18 Barry Eisenberg with the initial -- with the</p> <p>19 "BOM" at the bottom of the block. Do you see</p> <p>20 that?</p> <p>21 A. Yes.</p> <p>22 Q. Do you know what that means?</p> <p>23 A. Branch manager.</p> <p>24 Q. All right. And when referring to</p> <p>25 the term "branch manager," what did that mean</p>

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<p style="text-align: right;">Page 17</p> <p>1 Rocco Guidici Pietro</p> <p>2 regarding Alexander Capital, as of August of</p> <p>3 2015?</p> <p>4 A. Not sure which office he was branch</p> <p>5 manager of.</p> <p>6 Q. Did Alexander Capital --</p> <p>7 A. Branch manager.</p> <p>8 Q. When you say, "branch manager," was</p> <p>9 there more than one branch at Alexander</p> <p>10 Capital in August of 2015?</p> <p>11 A. I believe so, yes.</p> <p>12 Q. And how many branches, to your</p> <p>13 knowledge?</p> <p>14 A. Two or three.</p> <p>15 Q. And what did they -- were they</p> <p>16 branches defined by geography or by</p> <p>17 responsibilities or -- and/or both?</p> <p>18 A. Both.</p> <p>19 Q. Okay. And Mr. -- you said there</p> <p>20 were two or three branch managers as of</p> <p>21 August of 2015?</p> <p>22 A. No, I said there was two or three</p> <p>23 branches.</p> <p>24 Q. I'm sorry, two or three branches.</p> <p>25 A. I am not sure how many managers</p>	<p style="text-align: right;">Page 19</p> <p>1 Rocco Guidici Pietro</p> <p>2 idea.</p> <p>3 Q. Okay. Mr. O'Brian you see is to</p> <p>4 the right of Mr. Eisenberg. Do you see that?</p> <p>5 A. Yes.</p> <p>6 Q. Do you know what his position was</p> <p>7 in the company?</p> <p>8 A. He was an indirect owner, I</p> <p>9 believe. I don't even know why he would be</p> <p>10 on this chart or whatever this is.</p> <p>11 Q. Okay. So Mr. O' Brian, your</p> <p>12 understanding, was an indirect owner of</p> <p>13 Alexander Capital, LP, but there's no title</p> <p>14 listed. He is just on there next to Mr.</p> <p>15 Eisenberg; is that correct?</p> <p>16 A. Yes.</p> <p>17 Q. All right. And your understanding</p> <p>18 is that Mr. O' Brian did not have a</p> <p>19 responsibility to conduct certain duties or</p> <p>20 services for Alexander Capital; is that</p> <p>21 correct?</p> <p>22 A. To my knowledge, he never had any</p> <p>23 -- any supervisory duties at all, so I have</p> <p>24 no idea why he is on this chart.</p> <p>25 Q. Okay. Now, going back to the next</p>
<p style="text-align: right;">Page 18</p> <p>1 Rocco Guidici Pietro</p> <p>2 there were in 2015.</p> <p>3 Q. Well, other than Mr. Eisenberg, do</p> <p>4 you have any memory of other branch managers</p> <p>5 on par with Mr. Eisenberg?</p> <p>6 A. No, it could have been designated</p> <p>7 by the chief compliance officer. I don't</p> <p>8 know who was designated.</p> <p>9 Q. And what was your understanding of</p> <p>10 the responsibilities of a branch manager, as</p> <p>11 of August of 2015?</p> <p>12 A. A branch manager in 2015 for</p> <p>13 Alexander Capital or a branch manager in</p> <p>14 general?</p> <p>15 Q. No, Alexander Capital, LP. Thank</p> <p>16 you.</p> <p>17 A. A branch manager would be</p> <p>18 responsible for supervising the registered</p> <p>19 reps.</p> <p>20 Q. And how many registered reps, to</p> <p>21 your knowledge, did Alexander Capital have in</p> <p>22 August of 2015?</p> <p>23 A. I don't know.</p> <p>24 Q. Roughly?</p> <p>25 A. I am not going to guess. I have no</p>	<p style="text-align: right;">Page 20</p> <p>1 Rocco Guidici Pietro</p> <p>2 level, we see Jonathan Gazdak. Do you see</p> <p>3 that?</p> <p>4 A. Yes.</p> <p>5 Q. And it says, "investment banking."</p> <p>6 Do you see that?</p> <p>7 A. Yes.</p> <p>8 Q. Was it your -- do you know who Mr.</p> <p>9 Gazdak is?</p> <p>10 A. Yes, I do.</p> <p>11 Q. And were -- do you know when Mr.</p> <p>12 Gazdak joined Alexander Capital, LP?</p> <p>13 A. Not sure exactly when he joined. I</p> <p>14 would say about six years ago, seven years</p> <p>15 ago.</p> <p>16 Q. All right. And he was -- did you</p> <p>17 -- and he was associated with Alexander</p> <p>18 Capital in 2015; is that correct?</p> <p>19 A. Yes.</p> <p>20 Q. Now, under his name it says</p> <p>21 "investment banking." Do you see that?</p> <p>22 A. Yes.</p> <p>23 Q. All right. And what is your</p> <p>24 understanding of the duties and</p> <p>25 responsibilities of Mr. Gazdak, regarding</p>

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<p style="text-align: right;">Page 21</p> <p>1 Rocco Guidici Pietro</p> <p>2 investment banking concerning Alexander</p> <p>3 Capital, LP, in -- as of 2015?</p> <p>4 A. I will not speak for his duties.</p> <p>5 He was the head of investment banking. I am</p> <p>6 not a banker. I am not familiar with what he</p> <p>7 would need to do.</p> <p>8 Q. All right, but you knew he was head</p> <p>9 of investment banking; is that correct?</p> <p>10 A. Yes, he was head of investment</p> <p>11 banking.</p> <p>12 Q. And who at Alexander Capital, LP</p> <p>13 was responsible for hiring Mr. Gazdak and</p> <p>14 putting him in that position?</p> <p>15 A. He was -- I am not sure who</p> <p>16 officially hired him.</p> <p>17 Q. Did you and Mr. Amato have a hiring</p> <p>18 -- or exercise any hiring responsibilities or</p> <p>19 did you leave that to people below who --</p> <p>20 below you, who you were supervising?</p> <p>21 A. We leave that most of the time to</p> <p>22 the people below.</p> <p>23 Q. Regarding Mr. Gazdak, your best</p> <p>24 memory, if you have one, of whether any of</p> <p>25 the people on that block were involved in his</p>	<p style="text-align: right;">Page 23</p> <p>1 Rocco Guidici Pietro</p> <p>2 Q. How long has Mr. Sullivan had that</p> <p>3 position, to your knowledge?</p> <p>4 A. Been there quite a while. I would</p> <p>5 say from '14, '13, '14.</p> <p>6 Q. To the present?</p> <p>7 A. To the present.</p> <p>8 Q. And just briefly, what are the</p> <p>9 responsibilities, in your understanding, of</p> <p>10 the FINOP officer, the financial operations</p> <p>11 officer?</p> <p>12 A. I am not an FINOP, so I don't know</p> <p>13 exactly what he is supposed to do.</p> <p>14 Q. All right. Next to his name is</p> <p>15 Alfredo Cruz. Do you see that?</p> <p>16 A. Yes.</p> <p>17 Q. It says, F-M-S-R-B. Do those</p> <p>18 initials mean anything to you?</p> <p>19 A. Yes, municipal bonds principal.</p> <p>20 Q. And David Spratt, do you see that</p> <p>21 box next to Cruz?</p> <p>22 A. Yes.</p> <p>23 Q. And it says, "proprietary trading;"</p> <p>24 is that right?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 22</p> <p>1 Rocco Guidici Pietro</p> <p>2 hiring, or you just don't know?</p> <p>3 A. I -- I don't know. I mean, I have</p> <p>4 spoken to him when he was, you know, coming</p> <p>5 in for an interview, but the official choices</p> <p>6 -- there were a lot of other people there at</p> <p>7 that time.</p> <p>8 Q. And who were the people who would</p> <p>9 make hiring decisions by Alexander Capital at</p> <p>10 that time, when Mr. Gazdak was hired, to your</p> <p>11 knowledge?</p> <p>12 A. At that point it would be --</p> <p>13 compliance would run a background check on</p> <p>14 him, and he would go through the compliance</p> <p>15 due diligence, and at that time the</p> <p>16 compliance and CEO.</p> <p>17 Q. And you see Thomas Sullivan's name</p> <p>18 next to Gazdak?</p> <p>19 A. Yes.</p> <p>20 Q. And it says, F-I-N-O-P. Do you</p> <p>21 know what that stands for?</p> <p>22 A. Yes, FINOP.</p> <p>23 Q. Yes. What's FINOP stand for?</p> <p>24 A. He is the financial -- he keeps the</p> <p>25 books and records for the firm.</p>	<p style="text-align: right;">Page 24</p> <p>1 Rocco Guidici Pietro</p> <p>2 Q. What is your understanding of</p> <p>3 proprietary trading, regarding Alexander</p> <p>4 Capital, LP, at that time, August of 2015?</p> <p>5 A. He was on our trading desk, so he</p> <p>6 would -- he would be our trader.</p> <p>7 Q. Now, below Mr. Gazdak is Bari</p> <p>8 Latterman. Were you familiar with Ms.</p> <p>9 Latterman at any time in 2015?</p> <p>10 A. Yes.</p> <p>11 Q. What was your understanding of her</p> <p>12 position at Alexander Capital at that time?</p> <p>13 A. She was administrative assistant.</p> <p>14 Q. Do you know who she reported to?</p> <p>15 A. She worked for anybody she needed</p> <p>16 to work for. She didn't report to anybody,</p> <p>17 really. Compliance.</p> <p>18 Q. Now, do you know Mr. Christopher</p> <p>19 Carlin?</p> <p>20 A. Yes.</p> <p>21 Q. And how long -- has Mr. -- to your</p> <p>22 knowledge, has Mr. Carlin been associated</p> <p>23 with Alexander Capital, LP?</p> <p>24 A. Yes.</p> <p>25 Q. And what -- I'm sorry?</p>

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<p style="text-align: right;">Page 25</p> <p>1 Rocco Guidici Pietro</p> <p>2 A. How long, I'm sorry?</p> <p>3 Q. Yeah.</p> <p>4 A. I believe he joined us in 2013,</p> <p>5 '14.</p> <p>6 Q. And he has been with Alexander</p> <p>7 Capital since that time, up to the present?</p> <p>8 A. Yes.</p> <p>9 Q. And what has -- did his position</p> <p>10 change at all, or did he maintain the same</p> <p>11 position as when he entered?</p> <p>12 A. Pretty much maintains the same</p> <p>13 position since he entered.</p> <p>14 Q. What was your understanding of his</p> <p>15 title, if he had one?</p> <p>16 A. He is in capital markets. When we</p> <p>17 have a project, he works on raising the</p> <p>18 money.</p> <p>19 Q. All right. And what -- could you</p> <p>20 explain to us, what are -- what was Capital</p> <p>21 Markets, in relation to Alexander Capital,</p> <p>22 LP? What did that entail?</p> <p>23 A. Capital Markets was -- internally</p> <p>24 would be responsible for raising money for</p> <p>25 companies when we engaged with them in</p>	<p style="text-align: right;">Page 27</p> <p>1 Rocco Guidici Pietro</p> <p>2 Confusing as to --</p> <p>3 MR. SCHLICHTMANN: Sorry, I</p> <p>4 don't want --</p> <p>5 A. Yeah, I mean --</p> <p>6 Q. It's okay. I withdraw the</p> <p>7 question.</p> <p>8 A. Okay.</p> <p>9 Q. I want to make sure that it's</p> <p>10 clear.</p> <p>11 If this is a chart showing the</p> <p>12 corporate hierarchy and the relationship of</p> <p>13 various people employed by Alexander Capital</p> <p>14 to each other regarding who is superior to</p> <p>15 who, who was on the same par, regarding</p> <p>16 corporate responsibility, who was supervising</p> <p>17 who, okay, I want you to assume that that's</p> <p>18 what this is showing, would -- where would</p> <p>19 Mr. Carlin's block be, in relationship to</p> <p>20 Mr. Gazdak?</p> <p>21 A. Not on this chart.</p> <p>22 Q. Okay. Why is that?</p> <p>23 A. He is a registered rep. It's not a</p> <p>24 division or a supervisory title.</p> <p>25 Q. Okay. And is -- would he then be</p>
<p style="text-align: right;">Page 26</p> <p>1 Rocco Guidici Pietro</p> <p>2 banking.</p> <p>3 Q. All right. And he has held that</p> <p>4 position throughout the time he has been</p> <p>5 associated with Alexander Capital; is that</p> <p>6 correct?</p> <p>7 A. Yes.</p> <p>8 Q. Did Mr. Carlin, to your knowledge,</p> <p>9 have anyone who reported to him regarding</p> <p>10 Capital Markets, or was the only person</p> <p>11 involved in the Capital Markets section of</p> <p>12 Alexander Capital?</p> <p>13 A. He was pretty much the only</p> <p>14 partner. He would be the -- he would have a</p> <p>15 couple of registered reps that would work</p> <p>16 with him, but he is the only person.</p> <p>17 Q. Okay. Mr. Carlin's name is not on</p> <p>18 this chart as -- which was submitted to FINRA</p> <p>19 in August of 2015. Do you have any -- based</p> <p>20 on your knowledge of the operations of</p> <p>21 Alexander Capital, would Mr. Carlin's</p> <p>22 position in the company be above Mr. Gazdak,</p> <p>23 Mr. Sullivan -- and Mr. Sullivan, or would it</p> <p>24 be below them, or would it be alongside them?</p> <p>25 MR. WARD: Objection.</p>	<p style="text-align: right;">Page 28</p> <p>1 Rocco Guidici Pietro</p> <p>2 under Mr. Eisenberg's supervision as branch</p> <p>3 manager or someone else?</p> <p>4 A. He would be under compliance. I am</p> <p>5 not sure if he was under -- he would be</p> <p>6 designated from the chief compliance officer</p> <p>7 to a supervisor.</p> <p>8 Q. Okay. When you say, "supervisor,"</p> <p>9 are -- supervisors report to branch managers,</p> <p>10 or who do they report to?</p> <p>11 A. Depends which supervisor and what</p> <p>12 department it is.</p> <p>13 Q. All right. So the person that</p> <p>14 would supervise Capital Markets, who would</p> <p>15 that supervisor report to?</p> <p>16 A. I wouldn't know at that time who</p> <p>17 anybody was reporting to, 2015.</p> <p>18 Q. All right. How about 2014, 2015,</p> <p>19 2016, in that period of time, making a little</p> <p>20 broader period of time, any understanding as</p> <p>21 to who Capital Markets -- who Mr. Carlin</p> <p>22 would have -- whose -- who the supervisor of</p> <p>23 Mr. Carlin would have been?</p> <p>24 A. I don't recall.</p> <p>25 Q. I'm sorry?</p>

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<p style="text-align: right;">Page 29</p> <p>1 Rocco Guidici Pietro</p> <p>2 MR. WARD: Objection.</p> <p>3 Vague.</p> <p>4 MR. SCHLICHTMANN: Okay.</p> <p>5 Q. Between 2014 and 2016, do you have</p> <p>6 any -- do you have any memory of who Mr.</p> <p>7 Carlin -- whose -- who supervised Mr. Carlin,</p> <p>8 if anyone did, at Alexander Capital?</p> <p>9 A. He definitely had a supervisor, but</p> <p>10 I don't have no idea who. It was a small</p> <p>11 firm. A lot of people had different hats.</p> <p>12 Q. Okay. And the supervisor -- and</p> <p>13 who -- and he would have had a supervisor,</p> <p>14 you said, and to your knowledge, during this</p> <p>15 period of time, 2014 to 2016, who would the</p> <p>16 supervisor of Capital Markets report to, if</p> <p>17 you have any knowledge or understanding of</p> <p>18 that?</p> <p>19 A. I don't. I don't know who was</p> <p>20 reporting to anybody.</p> <p>21 Q. Okay. You said that you were the</p> <p>22 chief operations officer; is that correct?</p> <p>23 A. Correct.</p> <p>24 Q. And you've been the chief operating</p> <p>25 officer since 2013, to the present?</p>	<p style="text-align: right;">Page 31</p> <p>1 Rocco Guidici Pietro</p> <p>2 to exercise your duties and responsibilities</p> <p>3 as a chief operating officer; is that fair?</p> <p>4 A. If I request information from him,</p> <p>5 yes.</p> <p>6 Q. All right. I am -- okay. I am</p> <p>7 going to see if I will put up another</p> <p>8 document here. Okay, if all goes well, it</p> <p>9 will appear. All right, I am going to show</p> <p>10 you a document. Share screen. Do you see a</p> <p>11 document on the screen?</p> <p>12 A. Yes.</p> <p>13 Q. You see "Delaware, the First</p> <p>14 State," at the top of the document?</p> <p>15 A. Yes.</p> <p>16 Q. Now, I will just scroll. This</p> <p>17 document is exhibit -- previously been marked</p> <p>18 as Exhibit 28. By the way, did I identify</p> <p>19 the corporate chart? I did, okay. Thank you</p> <p>20 very much.</p> <p>21 So this is a document previously</p> <p>22 marked as Plaintiff's Exhibit 28, and it's a</p> <p>23 document from the Delaware Secretary of</p> <p>24 State's office, as indicated in the</p> <p>25 certification.</p>
<p style="text-align: right;">Page 30</p> <p>1 Rocco Guidici Pietro</p> <p>2 A. Correct.</p> <p>3 Q. And could you describe for us, what</p> <p>4 are the duties and responsibilities, as you</p> <p>5 understood them, of a chief operating</p> <p>6 officer?</p> <p>7 A. I handle mostly the finances. I</p> <p>8 work with the FINOP on net cap and I take</p> <p>9 care of payroll. That's majority of my --</p> <p>10 what my business description is.</p> <p>11 Q. All right. And so is it fair to</p> <p>12 say that as regarding Alexander Capital, that</p> <p>13 you are the person who would be at the</p> <p>14 highest level regarding the financial</p> <p>15 operations of the firm; is that fair?</p> <p>16 A. Yes.</p> <p>17 Q. And that the financial operations</p> <p>18 officer would be reporting to you?</p> <p>19 A. No, he is independent. He does his</p> <p>20 own work. We collaborate and we go over it,</p> <p>21 but he is responsible for books and records</p> <p>22 and the financials of the firm.</p> <p>23 Q. And -- but from time to time, his</p> <p>24 responsibilities is to provide you</p> <p>25 information at your request, in order for you</p>	<p style="text-align: right;">Page 32</p> <p>1 Rocco Guidici Pietro</p> <p>2 Do you see that, the certification</p> <p>3 on the top?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. And it says, "The following</p> <p>6 documents have been filed, certificate of</p> <p>7 limited partnership, filed in 1995," and this</p> <p>8 has to do with Alexander Capital, LP, and</p> <p>9 then it has a certificate of registration</p> <p>10 filed in 1998.</p> <p>11 Do you see that?</p> <p>12 A. Yes.</p> <p>13 MR. WARD: You just read</p> <p>14 that -- "restoration."</p> <p>15 MR. SCHLICHTMANN: What did</p> <p>16 I say?</p> <p>17 MR. WARD: "Registration."</p> <p>18 MR. SCHLICHTMANN: Oh, I'm</p> <p>19 sorry. I thought I said --</p> <p>20 certificate of restoration in 1998.</p> <p>21 Q. And then a certificate of revival</p> <p>22 in 2012.</p> <p>23 Do you see that?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. And then it says, "I further</p>

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<p style="text-align: right;">Page 33</p> <p>1 Rocco Guidici Pietro</p> <p>2 certify that the aforesaid certificates are</p> <p>3 the only certificates on record of Alexander</p> <p>4 Capital, LP," and the date of this</p> <p>5 certification is June 4, 2021. Do you see</p> <p>6 that?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. So this is a certification</p> <p>9 from the state of Delaware about what was on</p> <p>10 file at the secretary of state's office of</p> <p>11 Delaware regarding Alexander Capital, LP, as</p> <p>12 of June 4, 2021.</p> <p>13 And now I am just going to briefly</p> <p>14 go through these documents, all right, and</p> <p>15 this is the certification regarding -- that</p> <p>16 was filed in 1995. And it's a certificate of</p> <p>17 limited partnership of Alexander Capital, LP,</p> <p>18 and I am just going to slowly go through it,</p> <p>19 have you have a chance to look at it. It's</p> <p>20 signed by a Mr. McClean, assistant secretary,</p> <p>21 and this is a 1995 document, saying that the</p> <p>22 name of the limited partnership is Alexander</p> <p>23 Capital, LP, giving its -- it says -- it says</p> <p>24 the name and mailing address of each general</p> <p>25 partner is Alexander Partners, Inc. Do you</p>	<p style="text-align: right;">Page 35</p> <p>1 Rocco Guidici Pietro</p> <p>2 Q. Okay. And then the next document</p> <p>3 is a certificate to restore to good standing</p> <p>4 a Delaware limited partnership, referring to</p> <p>5 Alexander Capital, LP, and it says that, "I,</p> <p>6 Alexander Capital Holdings, Inc., general</p> <p>7 partner, or liquidating trustee of the above</p> <p>8 hereby certify that this limited partnership</p> <p>9 is paying all annual taxes, penalties and</p> <p>10 interest due to the state of Delaware." Do</p> <p>11 you see that?</p> <p>12 A. Yes, the date is cut off with your</p> <p>13 pictures.</p> <p>14 Q. Okay. How about that?</p> <p>15 A. I see November 27. I don't see the</p> <p>16 year.</p> <p>17 Q. This is -- this certificate says,</p> <p>18 "23rd day of January, 1998," referring to</p> <p>19 this document.</p> <p>20 Do you see that?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. So this was filed on that</p> <p>23 date, according to the certificate of the</p> <p>24 secretary of state of Delaware, January 23,</p> <p>25 1998, and it's a certificate to restore to</p>
<p style="text-align: right;">Page 34</p> <p>1 Rocco Guidici Pietro</p> <p>2 see that?</p> <p>3 A. Yes.</p> <p>4 Q. Now, in looking at this document,</p> <p>5 is this a document you are familiar with at</p> <p>6 all?</p> <p>7 Have you seen it before?</p> <p>8 A. Not this particular document, no.</p> <p>9 Q. Were you aware of the facts that a</p> <p>10 certificate of limited partnership was filed</p> <p>11 on behalf of Alexander Capital, in 1995, at</p> <p>12 the secretary of state's office in Delaware?</p> <p>13 Is that, generally, consistent with</p> <p>14 your memory or understanding?</p> <p>15 A. I wasn't there in '95.</p> <p>16 Q. Correct, but knowing -- but based</p> <p>17 on your knowledge and experience and</p> <p>18 understanding of Alexander Capital's history</p> <p>19 of operations, did it come to your attention,</p> <p>20 were you made aware in any way, for any</p> <p>21 reason, that Alexander Capital, LP was --</p> <p>22 filed in 1995 with the secretary of state's</p> <p>23 office in Delaware, a certificate of limited</p> <p>24 partnership?</p> <p>25 A. I know it was formed in 1995, yes.</p>	<p style="text-align: right;">Page 36</p> <p>1 Rocco Guidici Pietro</p> <p>2 good standing a Delaware limited partnership,</p> <p>3 referring to Alexander Capital, LP.</p> <p>4 Now, it states Alexander Capital</p> <p>5 Holdings, Inc., was the general partner at</p> <p>6 that time. Now, were you -- are you familiar</p> <p>7 at all or with Alexander Capital Holdings,</p> <p>8 Inc., did it ever come to your attention that</p> <p>9 particular company, Alexander Capital</p> <p>10 Holdings, Inc.?</p> <p>11 A. No, I am not.</p> <p>12 Q. Did you know that Alexander Capital</p> <p>13 Holdings, Inc., was listed as the general</p> <p>14 partner?</p> <p>15 Was that your understanding of --</p> <p>16 that it was listed as the general partner of</p> <p>17 Alexander Capital since, at least, 1998?</p> <p>18 A. No, I am not. I don't even know</p> <p>19 who Alexander Capital Holdings is.</p> <p>20 Q. Okay. The -- the -- I can see that</p> <p>21 the next certificate is the 23rd day of</p> <p>22 April, 2012. Do you see that?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. And that -- this certificate</p> <p>25 filed April 23, 2012, with the secretary of</p>

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<p style="text-align: right;">Page 37</p> <p>1 Rocco Guidici Pietro</p> <p>2 state's office in Delaware says the name of</p> <p>3 the limited -- it's a certificate of revival</p> <p>4 of the Delaware limited partnership, and the</p> <p>5 name is Alexander Capital, LP. The date of</p> <p>6 the original filing in the secretary of</p> <p>7 state's office, it says, is November 27,</p> <p>8 1995, and it says the name of the general</p> <p>9 partner is Alexander Capital Holdings, Inc.</p> <p>10 Do you see that?</p> <p>11 A. Yes.</p> <p>12 Q. It lists the address for Alexander</p> <p>13 Capital Holdings, Inc., as 17 State Street,</p> <p>14 5th Floor, New York, New York. Do you see</p> <p>15 that?</p> <p>16 A. Yes.</p> <p>17 Q. Do you recognize that address, 17</p> <p>18 State Street?</p> <p>19 A. Yes.</p> <p>20 Q. What's that address of?</p> <p>21 A. That's our current address.</p> <p>22 Q. Alexander Capital LP's, that's</p> <p>23 where their offices are, correct?</p> <p>24 A. Yes.</p> <p>25 Q. Now, this says that the general</p>	<p style="text-align: right;">Page 39</p> <p>1 Rocco Guidici Pietro</p> <p>2 Q. Do you know if she was holding it</p> <p>3 as owner of Alexander Capital Holdings, Inc.?</p> <p>4 A. I do not. I have no access to any</p> <p>5 documents of hers.</p> <p>6 Q. All right. Now, this is -- as of</p> <p>7 June 20, 2021, this is the last document on</p> <p>8 file as of that time with the secretary of</p> <p>9 state's office of Delaware, according to this</p> <p>10 certification.</p> <p>11 Do you ever remember seeing this</p> <p>12 document, the certificate of revival that we</p> <p>13 just went over, at any time, for any reason?</p> <p>14 A. I do not.</p> <p>15 Q. Okay. Again, I just -- to make</p> <p>16 sure, were you aware that Alexander Capital</p> <p>17 Holdings, Inc., as of 2013, was the general</p> <p>18 partner of Alexander Capital, LP, or you were</p> <p>19 not aware of that, even as you sit here</p> <p>20 today?</p> <p>21 A. I wasn't aware of it then or now.</p> <p>22 Q. All right. Okay, bear with me as I</p> <p>23 bring up another document. Bear with me here</p> <p>24 as I bring it up. Get that up there.</p> <p>25 I am going to show you -- I am</p>
<p style="text-align: right;">Page 38</p> <p>1 Rocco Guidici Pietro</p> <p>2 partner Alexander Capital Holdings, Inc., was</p> <p>3 also at that address. Were you aware, based</p> <p>4 on your understanding of the history of</p> <p>5 operations at Alexander Capital, that at some</p> <p>6 point Alexander Capital Holdings, Inc.,</p> <p>7 claimed its address as the same address as</p> <p>8 Alexander Capital, LP, at least as of 2013?</p> <p>9 A. No, I did not.</p> <p>10 Q. This is signed by a Francine Lanaia</p> <p>11 as president. Do you see that?</p> <p>12 A. Yeah, she was the previous owner.</p> <p>13 Q. What was your understanding of who</p> <p>14 Francine Lanaia was?</p> <p>15 A. The previous owner of Alexander</p> <p>16 Capital, LP.</p> <p>17 Q. And do you know who -- was she the</p> <p>18 actual owner, 100 percent, or did she share</p> <p>19 ownership with anyone else, to your</p> <p>20 knowledge?</p> <p>21 A. I don't know.</p> <p>22 Q. Do you know the entity under which</p> <p>23 Ms. Lanaia held ownership of Alexander</p> <p>24 Capital, LP?</p> <p>25 A. I do not.</p>	<p style="text-align: right;">Page 40</p> <p>1 Rocco Guidici Pietro</p> <p>2 going to show you a document now. Now, this</p> <p>3 is a filing that was just filed on the 28th</p> <p>4 day of September with the secretary of</p> <p>5 state's office at Delaware, concerning</p> <p>6 Alexander Capital, LP.</p> <p>7 Do you see that on the screen or</p> <p>8 have we not shared? Yeah, do you see that on</p> <p>9 the screen?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. And are you aware that a</p> <p>12 filing was made at the secretary of state's</p> <p>13 office in Delaware just two days ago,</p> <p>14 regarding Alexander Capital, LP, or you did</p> <p>15 not know?</p> <p>16 A. Yes, I am.</p> <p>17 Q. You are aware. And were you</p> <p>18 involved in the discussions regarding the</p> <p>19 filing of that document, prior to its filing?</p> <p>20 A. Yes.</p> <p>21 Q. Do you know the reason it was</p> <p>22 filed?</p> <p>23 MR. WARD: I will just</p> <p>24 interject here. To the extent that</p> <p>25 this involves any attorney-client</p>

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<p style="text-align: right;">Page 41</p> <p>1 Rocco Guidici Pietro</p> <p>2 communications, including from me,</p> <p>3 then, I will instruct the witness</p> <p>4 not to answer.</p> <p>5 MR. SCHLICHTMANN: Yes, I am</p> <p>6 not -- and thank you, Attorney</p> <p>7 Ward.</p> <p>8 Q. I am not asking you to divulge any</p> <p>9 conversations or communications you had with</p> <p>10 counsel, Mr. Guidici Pietro. I am asking your</p> <p>11 understanding as to the reason why this was</p> <p>12 filed, not communications with counsel, but</p> <p>13 what your understanding was.</p> <p>14 A. Well, the -- to answer the</p> <p>15 question, then, I would have to tell you what</p> <p>16 I spoke with my counsel with, so it's</p> <p>17 difficult to answer the question.</p> <p>18 Q. Okay, so you had an understanding,</p> <p>19 but it's restricted to communications with</p> <p>20 your counsel and not some other business</p> <p>21 reason --</p> <p>22 A. Correct.</p> <p>23 Q. -- is that correct?</p> <p>24 A. Correct.</p> <p>25 Q. Okay. It says that -- did you</p>	<p style="text-align: right;">Page 43</p> <p>1 Rocco Guidici Pietro</p> <p>2 in Exitus, LLC?</p> <p>3 A. I do not.</p> <p>4 Q. And Exitus, LLC is -- claims its</p> <p>5 address as the same address as Alexander</p> <p>6 Capital, LP, right, 17 Street -- 17 State</p> <p>7 Street, 5th Floor, New York New York; is that</p> <p>8 correct?</p> <p>9 A. Yes.</p> <p>10 Q. It also says that the "amendment is</p> <p>11 effective December 19, 2013, for accounting</p> <p>12 purposes only." Do you see that?</p> <p>13 A. I see that.</p> <p>14 Q. Okay. And are you familiar with</p> <p>15 who is the owner of Exitus, LLC?</p> <p>16 A. Yes.</p> <p>17 Q. Who is the owner, to your</p> <p>18 knowledge?</p> <p>19 A. Joe Fib -- Fibiolo.</p> <p>20 Q. Now, because his name comes up</p> <p>21 spelling with an A or O, do you know the</p> <p>22 correct spelling?</p> <p>23 Does his name end with an A or an</p> <p>24 O?</p> <p>25 A. I don't know.</p>
<p style="text-align: right;">Page 42</p> <p>1 Rocco Guidici Pietro</p> <p>2 actually see this document, prior to its</p> <p>3 filing?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. It says -- did you approve</p> <p>6 the filing of the document?</p> <p>7 A. Yes.</p> <p>8 Q. All right. It says the name of the</p> <p>9 limited partnership is Alexander Capital, LP.</p> <p>10 Do you see that?</p> <p>11 A. Yes.</p> <p>12 Q. And it says, Article 3 of the</p> <p>13 certificate of limited partnership shall be</p> <p>14 amended as follows: The name and mailing</p> <p>15 address of each general partner is as</p> <p>16 follows: Exitus, LLC.</p> <p>17 Do you see that?</p> <p>18 A. Yes.</p> <p>19 Q. And it's 17 State Street, 5th</p> <p>20 Floor, New York, New York, correct?</p> <p>21 A. Yes.</p> <p>22 Q. And are you familiar with Exitus,</p> <p>23 LLC?</p> <p>24 A. Yes.</p> <p>25 Q. Do you have an ownership interest</p>	<p style="text-align: right;">Page 44</p> <p>1 Rocco Guidici Pietro</p> <p>2 Q. Okay. All right. Well, how do you</p> <p>3 remember it best? I don't want to, you know,</p> <p>4 insult Mr. Fibiolo. Is it your</p> <p>5 understanding it's more likely Mr. Fibiolo or</p> <p>6 Fibiola?</p> <p>7 A. -ola, I believe.</p> <p>8 Q. With an "A," okay, so we will do</p> <p>9 that. We will refer to the owner of Exitus</p> <p>10 as Mr. Fibiola and -- oh, well, there we go</p> <p>11 right there --</p> <p>12 A. Oh, yeah.</p> <p>13 Q. -- on the document. There we go,</p> <p>14 Mr. Figliolo is now showing us with that -olo</p> <p>15 is with an "O" and not an "A." So we will</p> <p>16 properly refer to him as Figliolo. He signed</p> <p>17 this certificate. Do you see that?</p> <p>18 A. Yes.</p> <p>19 Q. Now, is it your understanding that</p> <p>20 as of December 19, 2013, that Exitus was the</p> <p>21 general partner of Alexander Capital, LP,</p> <p>22 from that time until the present?</p> <p>23 A. No, I do not know.</p> <p>24 Q. Do you know what Mr. -- Mr.</p> <p>25 Figliolo, did he have a relationship with</p>

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<p style="text-align: right;">Page 45</p> <p>1 Rocco Guidici Pietro</p> <p>2 Alexander Capital from 2013, to the present,</p> <p>3 to your knowledge?</p> <p>4 A. He did not.</p> <p>5 Q. He himself did not?</p> <p>6 A. Correct.</p> <p>7 Q. Okay. And do you know if he</p> <p>8 exercised any interest in Alexander Capital,</p> <p>9 LP, through another entity?</p> <p>10 A. Through Exitus.</p> <p>11 Q. Okay. And what is your</p> <p>12 understanding, if you have one, as to Mr.</p> <p>13 Figliolo's ownership interest of Exitus?</p> <p>14 A. I -- he own -- he was a partner.</p> <p>15 That's all I know.</p> <p>16 Q. You don't know if his interest is</p> <p>17 100 percent or whether he shares ownership</p> <p>18 with someone else?</p> <p>19 A. I don't remember.</p> <p>20 Q. All right. Now, again, referring</p> <p>21 to Exitus, LLC, were you aware, at any time,</p> <p>22 you know, up to the present, that Exitus had</p> <p>23 a GP ownership or was claiming a GP ownership</p> <p>24 in Alexander Capital, LP, from 2013 through</p> <p>25 2015?</p>	<p style="text-align: right;">Page 47</p> <p>1 Rocco Guidici Pietro</p> <p>2 Alexander Capital, LP, as of today?</p> <p>3 A. No, Exitus has nothing to do with</p> <p>4 Alexander Capital, LP.</p> <p>5 Q. I'm sorry?</p> <p>6 A. He was a previous owner.</p> <p>7 Q. Okay. And do you know when he was</p> <p>8 a previous owner?</p> <p>9 A. In '13, '14.</p> <p>10 Q. And then after '14, he stopped</p> <p>11 being an owner?</p> <p>12 A. We bought his ownership in '14, I</p> <p>13 believe.</p> <p>14 Q. All right. And when you say, "we,"</p> <p>15 who's the "we"?</p> <p>16 A. Nesa Management.</p> <p>17 Q. And owned by yourself and Mr.</p> <p>18 Amato?</p> <p>19 A. Yes.</p> <p>20 Q. All right. You say you -- did you</p> <p>21 purchase 100 percent of his interest or a</p> <p>22 lesser percent than 100 percent, at that</p> <p>23 time?</p> <p>24 A. At that time, I believe it was 24.9</p> <p>25 percent.</p>
<p style="text-align: right;">Page 46</p> <p>1 Rocco Guidici Pietro</p> <p>2 A. I do not know what Exitus' position</p> <p>3 was.</p> <p>4 Q. Okay. Or that -- all right. As of</p> <p>5 that time?</p> <p>6 A. Correct.</p> <p>7 Q. Okay. Now, it's claiming that it's</p> <p>8 a general partner, according to the</p> <p>9 certificate.</p> <p>10 Is that true, to your knowledge,</p> <p>11 based on what you know about --</p> <p>12</p> <p>13 MR. WARD: I will --</p> <p>14 objection. Misleading.</p> <p>15 MR. SCHLICHTMANN: I don't</p> <p>16 want to be misleading.</p> <p>17 Q. As of today, is it your</p> <p>18 understanding that Exitus, LLC, is a general</p> <p>19 partner of Alexander Capital, LP?</p> <p>20 A. I do not know.</p> <p>21 Q. Even as of today?</p> <p>22 A. Oh, as of today, Exitus has no</p> <p>23 involvement in Alexander Capital, LP.</p> <p>24 Q. Okay. Well, as of today, do you</p> <p>25 consider Exitus as a general partner of</p>	<p style="text-align: right;">Page 48</p> <p>1 Rocco Guidici Pietro</p> <p>2 Q. All right. You remember that,</p> <p>3 okay.</p> <p>4 And did you later purchase more of</p> <p>5 Exitus' interest, beyond 24.9 percent, or you</p> <p>6 have -- the only interest that you purchased</p> <p>7 was 24.9 percent, and that didn't change from</p> <p>8 then until now, to your knowledge?</p> <p>9 A. It did change. We bought 100</p> <p>10 percent at -- in 2017, I believe.</p> <p>11 Q. All right. And is it your</p> <p>12 understanding that you have to -- that</p> <p>13 whenever there's a change of ownership of</p> <p>14 Alexander Capital, LP, that it was necessary</p> <p>15 for it to have that approved by an</p> <p>16 organization known as FINRA, F-I-N-R-A?</p> <p>17 A. Yes.</p> <p>18 Q. And is it your testimony today that</p> <p>19 as of sometime in 2017, FINRA gave that</p> <p>20 approval to the change in ownership, or they</p> <p>21 did not give that approval?</p> <p>22 A. They gave that approval.</p> <p>23 Q. All right. And so from 2017 -- and</p> <p>24 do you remember, approximately, when that</p> <p>25 approval was given? I think you did say a</p>

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<p style="text-align: right;">Page 49</p> <p>1 Rocco Guidici Pietro</p> <p>2 season or month or I am not sure.</p> <p>3 A. No, that was a previous question.</p> <p>4 No, I do not know.</p> <p>5 Q. Sometime in 2017?</p> <p>6 A. I believe so, yes.</p> <p>7 Q. Okay. And so from 2017 onward,</p> <p>8 it's your understanding that Nesa owned 100</p> <p>9 percent of Exitus' interest in Alexander</p> <p>10 Capital; is that correct?</p> <p>11 A. No, not the present.</p> <p>12 Q. Okay. You are saying, "no, that's</p> <p>13 not present," may be -- I am not quite sure I</p> <p>14 understand the answer, in relation to my</p> <p>15 question. So, let me ask the question again.</p> <p>16 Is it your understanding that, as</p> <p>17 of the time that the ownership change was</p> <p>18 approved by FINRA in 2017, that Alexander</p> <p>19 Capital owned 100 percent of any interest</p> <p>20 that Exitus had in Alexander Capital, LP; is</p> <p>21 that correct?</p> <p>22 A. Yes.</p> <p>23 Q. To the present?</p> <p>24 A. It was correct in 2017, but not the</p> <p>25 present.</p>	<p style="text-align: right;">Page 51</p> <p>1 Rocco Guidici Pietro</p> <p>2 had in Alexander Capital, LP, correct?</p> <p>3 A. Yes, for a certain period of time.</p> <p>4 Q. Okay. In 2018, did that change?</p> <p>5 A. I am not sure when it changed, but</p> <p>6 I believe in 2018, it changed.</p> <p>7 Q. Okay. What is your understanding</p> <p>8 of the nature of the change?</p> <p>9 A. That Nesa sold off part of its</p> <p>10 ownership.</p> <p>11 Q. To who?</p> <p>12 A. I am not sure which partner came</p> <p>13 first. There's multiple partners.</p> <p>14 Q. Okay. Could you list the multiple</p> <p>15 partners, and then we will try and figure as</p> <p>16 best we can, based on your memory as who --</p> <p>17 what order it was.</p> <p>18 Who are all the partners, in</p> <p>19 whatever order.</p> <p>20 A. Ed O'Brian.</p> <p>21 Q. Okay, yes.</p> <p>22 A. Jean Solkine.</p> <p>23 Q. Yeah.</p> <p>24 A. Regere Partners, and Jay Sack, Inc.</p> <p>25 Q. All right. None of those people</p>
<p style="text-align: right;">Page 50</p> <p>1 Rocco Guidici Pietro</p> <p>2 Q. Okay. Did something happen between</p> <p>3 2017 and the present?</p> <p>4 A. Yes, we took in partners.</p> <p>5 Q. When you say, "we," who are you</p> <p>6 referring to?</p> <p>7 A. Nesa Management sold interest in</p> <p>8 Alexander Capital, LP.</p> <p>9 Q. Okay. To other partners?</p> <p>10 A. Correct.</p> <p>11 Q. When was that?</p> <p>12 A. I don't know the exact dates.</p> <p>13 Q. Is it recently?</p> <p>14 A. No.</p> <p>15 Q. All right. And so just to be</p> <p>16 clear, as of 20- -- in 2017, FINRA gave</p> <p>17 approval for Alexander -- for Nesa</p> <p>18 Management, LLC, to acquire all of the</p> <p>19 interest of Exitus, that Exitus had in</p> <p>20 Alexander Capital, LP; that's correct?</p> <p>21 A. Yes.</p> <p>22 Q. All right. And was that true that</p> <p>23 -- and, therefore, in 2017, after that</p> <p>24 approval, Alexander Capital had that 100</p> <p>25 percent interest of that Exitus previously</p>	<p style="text-align: right;">Page 52</p> <p>1 Rocco Guidici Pietro</p> <p>2 who took an interest back were Mr. Figliolo</p> <p>3 or any company that he controlled?</p> <p>4 A. No.</p> <p>5 Q. So as far as your understanding is</p> <p>6 that even though there was an ownership</p> <p>7 change in 2018, in which Nesa brought in</p> <p>8 additional partners, those additional</p> <p>9 partners had no involvement with</p> <p>10 Mr. Figliolo, or any company that he owned or</p> <p>11 controlled; is that correct?</p> <p>12 A. Correct.</p> <p>13 Q. So that as of 2017, when FINRA</p> <p>14 approved the ownership change, and Alexander</p> <p>15 Capital, LP acquired the remaining interest</p> <p>16 of Exitus and Alexander Capital, LP, as far</p> <p>17 as your understanding is, Exitus, LP, and Mr.</p> <p>18 Figliolo or any company he owned and</p> <p>19 controlled never reacquired an interest in</p> <p>20 Alexander Capital, LP, to this day; is that</p> <p>21 correct?</p> <p>22 MR. WARD: Objection.</p> <p>23 Confusing and misleading.</p> <p>24 MR. SCHLICHTMANN: I don't</p> <p>25 want it to be confusing or</p>

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<p style="text-align: right;">Page 53</p> <p>1 Rocco Guidici Pietro</p> <p>2 misleading.</p> <p>3 A. Correct.</p> <p>4 Q. And as of -- is it your</p> <p>5 understanding that since the time that</p> <p>6 Exitus, LLC sold its interest, upon approval</p> <p>7 of FINRA, to -- to Nesa Management, LLC,</p> <p>8 that, to your knowledge, Exitus never</p> <p>9 acquired an interest in Alexander Capital,</p> <p>10 LP, since that transaction in 2017; is that</p> <p>11 correct?</p> <p>12 A. Correct.</p> <p>13 Q. And to your knowledge, since that</p> <p>14 time in 2017, when Exitus was approved to</p> <p>15 sell its interest to Nesa Management, LLC,</p> <p>16 that to your knowledge, Mr. Figliolo never</p> <p>17 acquired an interest in Alexander Capital,</p> <p>18 from that time to the present, either</p> <p>19 directly or indirectly, through any company</p> <p>20 he owned or controlled; is that correct?</p> <p>21 A. Correct.</p> <p>22 Q. Do you know the nature -- do you</p> <p>23 know the factual grounds on which Exitus, LLC</p> <p>24 is stating to the secretary of state's office</p> <p>25 just two days ago that it considers itself</p>	<p style="text-align: right;">Page 55</p> <p>1 Rocco Guidici Pietro</p> <p>2 get to --</p> <p>3 MR. WARD: Okay.</p> <p>4 MR. SCHLICHTMANN: I got it.</p> <p>5 I did get it. Thank you for that.</p> <p>6 All right. Well, I will</p> <p>7 mark this, Bryan -- Mr. Ward,</p> <p>8 Attorney Ward, with your</p> <p>9 permission, for the record, we are</p> <p>10 going to have this marked as -- I</p> <p>11 believe 181. For the record, for</p> <p>12 the court reporter, is that all</p> <p>13 right, Attorney Ward?</p> <p>14 I believe 180 was the last</p> <p>15 one. Do you agree with me?</p> <p>16 MR. WARD: Yes, I agree.</p> <p>17 MR. SCHLICHTMANN: Okay, so</p> <p>18 this will be 181, and now I will</p> <p>19 put in the next document, which we</p> <p>20 will have marked as Plaintiff's</p> <p>21 Exhibit 182.</p> <p>22 MR. WARD: And, Rocco, how</p> <p>23 are you doing? Do you want to</p> <p>24 break or keep going? We've been</p> <p>25 going over an hour.</p>
<p style="text-align: right;">Page 54</p> <p>1 Rocco Guidici Pietro</p> <p>2 the general partner -- a general partner of</p> <p>3 Alexander Capital, LP, or you have no</p> <p>4 understanding of the factual basis of that</p> <p>5 claim?</p> <p>6 MR. WARD: Objection.</p> <p>7 Misstates the record.</p> <p>8 MR. SCHLICHTMANN: Okay, I</p> <p>9 don't want it to misstate the</p> <p>10 record.</p> <p>11 Q. Do you have any basis -- do you</p> <p>12 have any understanding as to why Exitus, LLC</p> <p>13 considers itself, as of two days ago, to be a</p> <p>14 general partner of Alexander Capital, LP?</p> <p>15 MR. WARD: Objection.</p> <p>16 Misstates the record.</p> <p>17 Q. Do you --</p> <p>18 MR. WARD: Jan, do you mind</p> <p>19 if I --</p> <p>20 MR. SCHLICHTMANN: Go ahead.</p> <p>21 Go ahead.</p> <p>22 MR. WARD: There's another</p> <p>23 document filed. We produced that</p> <p>24 as well. Just making sure.</p> <p>25 MR. SCHLICHTMANN: I will</p>	<p style="text-align: right;">Page 56</p> <p>1 Rocco Guidici Pietro</p> <p>2 THE WITNESS: Yeah, we will</p> <p>3 take a break for a couple of</p> <p>4 minutes.</p> <p>5 MR. SCHLICHTMANN: Yeah,</p> <p>6 okay. Any time.</p> <p>7 MR. WARD: Okay.</p> <p>8 MR. SCHLICHTMANN: Bryan, if</p> <p>9 you want, I can finish this one,</p> <p>10 and then we can take a break after</p> <p>11 we discuss the second one.</p> <p>12 MR. WARD: It's okay with</p> <p>13 me. Is that okay with you, Rocco?</p> <p>14 Q. Is it okay with you?</p> <p>15 A. Yeah, continue with this one.</p> <p>16 Q. Sure. If you do want a break, it's</p> <p>17 not a problem, but let me just go through</p> <p>18 with this one, if you are okay with it. If</p> <p>19 you are okay?</p> <p>20 A. You know what, let me take a break</p> <p>21 and then --</p> <p>22 Q. Okay.</p> <p>23 THE VIDEOGRAPHER: We are</p> <p>24 going off the record. The time is</p> <p>25 11:04 a.m.</p>

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<p style="text-align: right;">Page 57</p> <p>1 Rocco Guidici Pietro</p> <p>2 (Whereupon, a recess was</p> <p>3 taken at this time.)</p> <p>4 THE VIDEOGRAPHER: We are</p> <p>5 now back on the record. The time</p> <p>6 is 11:14.</p> <p>7 BY MR. SCHLICHTMANN:</p> <p>8 Q. Okay, I am going to show you a</p> <p>9 document that we're now marking as</p> <p>10 Plaintiff's Exhibit 182.</p> <p>11 Do you see it on your screen?</p> <p>12 A. Yes.</p> <p>13 Q. And it's a state of Delaware</p> <p>14 amendment to the certificate of limited</p> <p>15 partnership referring to Alexander Capital,</p> <p>16 LP, that was filed on September 28, 2021,</p> <p>17 just a couple of days ago.</p> <p>18 Do you see that?</p> <p>19 A. Yes.</p> <p>20 Q. It says the name of the limited</p> <p>21 partnership is Alexander Capital, LP. Do you</p> <p>22 see that?</p> <p>23 A. Yes.</p> <p>24 Q. It says, "The Article 3 of the</p> <p>25 certificate of limited partnership shall be</p>	<p style="text-align: right;">Page 59</p> <p>1 Rocco Guidici Pietro</p> <p>2 Q. Is it your understanding that</p> <p>3 there's more than one general partner of</p> <p>4 Alexander Capital, LP, as of today?</p> <p>5 A. I don't believe so.</p> <p>6 Q. It's your understanding there's</p> <p>7 only one general partner of Alexander</p> <p>8 Capital, LP?</p> <p>9 A. I don't know, to be honest.</p> <p>10 Q. Well, do you have any reason to</p> <p>11 believe there's another general partner of</p> <p>12 Alexander Capital, LP, other than Nesa</p> <p>13 Management, LLC?</p> <p>14 A. I am not sure what the other</p> <p>15 partners are considered...</p> <p>16 Q. Whether they are considered general</p> <p>17 partners or not?</p> <p>18 A. That's what I am saying, I am not</p> <p>19 sure if they are considered general partners.</p> <p>20 I don't believe so.</p> <p>21 Q. Okay. But the other --- when you</p> <p>22 say, "the other partners," is that the list</p> <p>23 of names that you gave previously of other</p> <p>24 people, that did not include Mr. Figliolo or</p> <p>25 Exitus, LLC?</p>
<p style="text-align: right;">Page 58</p> <p>1 Rocco Guidici Pietro</p> <p>2 amended as follows." It says, "The name and</p> <p>3 mailing address of each general partner is as</p> <p>4 follows: Nesa Management, LLC, 17 State</p> <p>5 Street, 5th Floor, New York, New York." Do</p> <p>6 you see that?</p> <p>7 A. Yes.</p> <p>8 Q. And it says, "This amendment is</p> <p>9 effective as of December 14, 2017." Do you</p> <p>10 see that?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. Had you seen this document</p> <p>13 prior to today?</p> <p>14 A. Yes.</p> <p>15 Q. All right. Now, you remember that</p> <p>16 the 180 -- Exhibit 181 had similar language</p> <p>17 in it that said the name and mailing address</p> <p>18 of each general partner is as follows, and it</p> <p>19 named Exitus, LLC, with the Alexander</p> <p>20 Capital, LP office address, and this one, a</p> <p>21 separate filing on the same date, says that</p> <p>22 -- names each general partner and lists Nesa</p> <p>23 Management, LLC, at the Alexander Capital, LP</p> <p>24 office address. Do you see that?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 60</p> <p>1 Rocco Guidici Pietro</p> <p>2 A. Yes.</p> <p>3 Q. Okay. To your knowledge, do you</p> <p>4 have any reason to believe that Nesa</p> <p>5 Management, LLC, and Exitus, LLC have, at</p> <p>6 present, any kind of disagreement regarding</p> <p>7 who the general partner or partner -- general</p> <p>8 partners of Alexander Capital, LP are?</p> <p>9 A. Can you repeat that question? I'm</p> <p>10 sorry.</p> <p>11 Q. Yes. As you sit here today, do you</p> <p>12 have any reason to believe that Nesa</p> <p>13 Management, LLC, and Alexander Capital, and</p> <p>14 Exitus, LLC, have a disagreement as to who is</p> <p>15 the general partner of Alexander Capital, LP,</p> <p>16 or whether there's more than one general</p> <p>17 partner?</p> <p>18 A. That's two questions.</p> <p>19 Q. Okay.</p> <p>20 A. As far as the first question,</p> <p>21 Exitus and Nesa, there's no disagreement.</p> <p>22 Exitus has nothing to do with Alexander</p> <p>23 Capital, LP.</p> <p>24 Q. Okay. And that's been the case</p> <p>25 since 2017, as you previously testified,</p>

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<p style="text-align: right;">Page 61</p> <p>1 Rocco Guidici Pietro</p> <p>2 correct?</p> <p>3 A. Yes.</p> <p>4 Q. All right. Now, as chief operating</p> <p>5 officer -- yes, as chief operating officer,</p> <p>6 do you see that in each of these -- one --</p> <p>7 Exhibit 181 and Exhibit 182, they refer to</p> <p>8 different times for accounting purposes, it</p> <p>9 says the -- this amendment is effective. Do</p> <p>10 you remember that?</p> <p>11 A. Yes.</p> <p>12 Q. And this one says that Nesa</p> <p>13 Management's depiction as the general partner</p> <p>14 is effective as of December 14, 2017. Do you</p> <p>15 see that?</p> <p>16 A. Yes.</p> <p>17 Q. It says, "for accounting purposes</p> <p>18 only."</p> <p>19 Do you see that?</p> <p>20 A. Yes, I see that.</p> <p>21 Q. Do you have any understanding as to</p> <p>22 why that limitation for accounting purposes</p> <p>23 only was put on this certificate or you have</p> <p>24 no understanding?</p> <p>25 A. I have no understanding.</p>	<p style="text-align: right;">Page 63</p> <p>1 Rocco Guidici Pietro</p> <p>2 opinion, is an accurate description of</p> <p>3 things, in your opinion?</p> <p>4 MR. WARD: Objection.</p> <p>5 Vague.</p> <p>6 MR. SCHLICHTMANN: I'm</p> <p>7 sorry?</p> <p>8 MR. WARD: Objection.</p> <p>9 Confusing and vague.</p> <p>10 MR. SCHLICHTMANN: No, yeah,</p> <p>11 I understand the objection.</p> <p>12 Q. You can answer.</p> <p>13 A. This would be with conversations</p> <p>14 with my counsel, the reason why it was put on</p> <p>15 there.</p> <p>16 Q. But you don't have any</p> <p>17 understanding independent of that, as to why</p> <p>18 this was put on there; is that fair?</p> <p>19 A. I do not. I am not a lawyer or an</p> <p>20 accountant.</p> <p>21 Q. Okay. All right. Are you --</p> <p>22 Mr. Guidici Pietro, do you have any licenses</p> <p>23 from FINRA regarding any aspect of the</p> <p>24 business of -- business of Alexander Capital,</p> <p>25 LP?</p>
<p style="text-align: right;">Page 62</p> <p>1 Rocco Guidici Pietro</p> <p>2 Q. As the chief operating officer, is</p> <p>3 it appropriate, in your opinion, for the</p> <p>4 amendment of this certificate that was</p> <p>5 amended -- the amended certificate that was</p> <p>6 filed two days ago, that it's appropriate for</p> <p>7 it to say that Alexander Capital is the</p> <p>8 general partner and has been since December</p> <p>9 14, 2017, for accounting purposes only?</p> <p>10 MR. WARD: Objection.</p> <p>11 Calls for speculation.</p> <p>12 Legal conclusion.</p> <p>13 MR. SCHLICHTMANN: Okay, I</p> <p>14 don't want any speculation and I</p> <p>15 don't want any legal conclusions.</p> <p>16 Q. I am only asking, based on your</p> <p>17 understanding as the chief operating officer</p> <p>18 of Alexander Capital, LP, regarding the</p> <p>19 operations and ownership of Alexander</p> <p>20 Capital, LP, is it consistent with your</p> <p>21 understanding that this certificate regarding</p> <p>22 Alexander Capital, LP, its statement that</p> <p>23 Nesa Management is the general partner,</p> <p>24 effective as of December 14, 2017, for</p> <p>25 accounting purposes only, is correct, in your</p>	<p style="text-align: right;">Page 64</p> <p>1 Rocco Guidici Pietro</p> <p>2 A. Yes, I have licenses.</p> <p>3 Q. What are they?</p> <p>4 A. Twenty-four, seven, sixty-three,</p> <p>5 and the four.</p> <p>6 Q. And can you tell us, briefly --</p> <p>7 describe what are the -- what do those</p> <p>8 licenses cover that you mentioned?</p> <p>9 A. The Series 7 is a general</p> <p>10 securities representative. 63 is a state</p> <p>11 registration. The 24 is a supervisor</p> <p>12 license, and the 4 is an option principal.</p> <p>13 Q. And during the time that you have</p> <p>14 been with Alexander Capital, LP, did you have</p> <p>15 any responsibilities or were involved in any</p> <p>16 way in dealing with initial public offerings</p> <p>17 that Alexander Capital was considering for a</p> <p>18 company?</p> <p>19 A. No.</p> <p>20 Q. During -- prior to your joining</p> <p>21 with Alexander Capital, can you briefly</p> <p>22 describe what your experience has been</p> <p>23 regarding broker-dealer or investment banking</p> <p>24 or capital market business?</p> <p>25 A. My experience before Alexander</p>

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<p style="text-align: right;">Page 65</p> <p>1 Rocco Guidicipietro</p> <p>2 Capital is all retail business with</p> <p>3 individual investors. Little to no business</p> <p>4 with banking. Never been involved in capital</p> <p>5 markets.</p> <p>6 Q. As of -- during the time that you</p> <p>7 -- well, from the time you joined Alexander</p> <p>8 Capital, and -- the time that you joined</p> <p>9 Alexander Capital, through 2015, did you</p> <p>10 understand that Alexander Capital, in order</p> <p>11 to be involved with the sale or offer of</p> <p>12 securities, had to have a membership in</p> <p>13 FINRA, the organization we talked about</p> <p>14 before?</p> <p>15 A. Yes.</p> <p>16 Q. And did you understand that as part</p> <p>17 of that membership, that there was an</p> <p>18 agreement between Alexander Capital and</p> <p>19 FINRA, regarding the activities it could do</p> <p>20 and couldn't do as a member of FINRA; is that</p> <p>21 correct?</p> <p>22 A. Yes, it's a membership agreement,</p> <p>23 yes.</p> <p>24 Q. Are you familiar with Alexander</p> <p>25 Capital's membership agreement?</p>	<p style="text-align: right;">Page 67</p> <p>1 Rocco Guidicipietro</p> <p>2 Q. And you used the phrase "CMA."</p> <p>3 What's a CMA?</p> <p>4 A. Continuing membership application.</p> <p>5 Q. And you are familiar with that term</p> <p>6 and what it considers?</p> <p>7 A. I'm familiar with the term.</p> <p>8 Q. Okay. Now, what I am asking</p> <p>9 specifically is: Did -- from 2013 through</p> <p>10 2015, all right, through the end of 2015, did</p> <p>11 -- not whether there was an application</p> <p>12 filed, but did the membership agreement</p> <p>13 change during that period of time, not</p> <p>14 whether it was an attempt to change it, but</p> <p>15 whether it actually changed during that time?</p> <p>16 A. I am not sure when the changes took</p> <p>17 effect.</p> <p>18 Q. And are you familiar with the</p> <p>19 changes?</p> <p>20 A. I didn't file the CMA; our</p> <p>21 attorneys did.</p> <p>22 Q. All right, but did you have a</p> <p>23 general understanding of the changes that</p> <p>24 occurred at some time?</p> <p>25 A. Over a period of time, yes.</p>
<p style="text-align: right;">Page 66</p> <p>1 Rocco Guidicipietro</p> <p>2 A. Pretty familiar with it. Yes.</p> <p>3 Q. And has that membership agreement,</p> <p>4 did it -- when you became the chief operating</p> <p>5 officer in 2013, you were aware that there</p> <p>6 was a -- that Alexander Capital had a</p> <p>7 membership agreement with FINRA, as of the</p> <p>8 time that you became the chief operating</p> <p>9 officer in 2013?</p> <p>10 A. Yes.</p> <p>11 Q. You were familiar with it?</p> <p>12 A. Don't recall what it was in 2013,</p> <p>13 '14.</p> <p>14 Q. All right. Well, do you remember</p> <p>15 that -- after you became chief operating</p> <p>16 officer, do you have any memory or</p> <p>17 understanding that at the time you became</p> <p>18 chief operating officer, through the end of</p> <p>19 2015, whether or not the membership --</p> <p>20 Alexander Capital's membership agreement in</p> <p>21 FINRA changed in any way?</p> <p>22 A. Yes.</p> <p>23 Q. What's your understanding?</p> <p>24 A. That we filed CMAs for expansion</p> <p>25 ownership change.</p>	<p style="text-align: right;">Page 68</p> <p>1 Rocco Guidicipietro</p> <p>2 Q. Okay. And could you describe, as</p> <p>3 best you can, what was your understanding of</p> <p>4 how the membership agreement was at the</p> <p>5 beginning, when you were involved, when you</p> <p>6 first became involved with Alexander Capital,</p> <p>7 LP, and how it changed over time, as best you</p> <p>8 can?</p> <p>9 A. We changed ownership. We asked for</p> <p>10 expansion to hire more personnel. We also</p> <p>11 filed for -- to do underwriting in firm</p> <p>12 commitment underwriting, and I believe that's</p> <p>13 most of the changes.</p> <p>14 Q. All right. And you said you</p> <p>15 understood that you asked for a change in</p> <p>16 firm commitment underwriting authority; is</p> <p>17 that correct?</p> <p>18 A. Yes.</p> <p>19 Q. And do you know -- well, do you</p> <p>20 know if FINRA ever granted Alexander Capital</p> <p>21 the authority to engage in firm commitment</p> <p>22 offerings?</p> <p>23 A. Yes.</p> <p>24 Q. Do you know when that occurred?</p> <p>25 A. I don't know the exact date.</p>

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<p style="text-align: right;">Page 69</p> <p>1 Rocco Guidici Pietro</p> <p>2 Q. Was it any time between 2013 and</p> <p>3 end of 2015, or was it after 2015?</p> <p>4 A. I believe it was after 2015.</p> <p>5 Q. Is it your best memory that it was</p> <p>6 a year or two ago or three?</p> <p>7 A. I don't know.</p> <p>8 Q. Is it most likely it occurred in</p> <p>9 the last three years?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. Was it your understanding</p> <p>12 from when you first began with Alexander</p> <p>13 Capital in 2013, through 2015, that Alexander</p> <p>14 Capital was only authorized to conduct best</p> <p>15 efforts underwriting, as opposed to a firm</p> <p>16 commitment underwriting?</p> <p>17 A. I am not sure what the official</p> <p>18 restrictions were.</p> <p>19 Q. But you do know that there was a</p> <p>20 change in the last three years, to Alexander</p> <p>21 Capital being approved by FINRA to conduct</p> <p>22 firm commitment offerings; is that correct?</p> <p>23 A. Yes.</p> <p>24 Q. All right. So, therefore, prior to</p> <p>25 that approval by FINRA, it was your</p>	<p style="text-align: right;">Page 71</p> <p>1 Rocco Guidici Pietro</p> <p>2 says, best efforts to raise the money.</p> <p>3 That's my simple definition.</p> <p>4 Q. As chief operating officer, were</p> <p>5 you aware, from 2013 to 2015, as to whether</p> <p>6 or not companies who were inquiring of the</p> <p>7 services of Alexander Capital, that it would</p> <p>8 be important to them to know whether or not</p> <p>9 Alexander Capital could conduct an offering</p> <p>10 that they were considering to do with</p> <p>11 Alexander Capital, as to whether Alexander</p> <p>12 Capital had the authority to do a firm</p> <p>13 commitment offering?</p> <p>14 A. That's not my area, the</p> <p>15 underwriting or the banking, so...</p> <p>16 Q. Based on your understanding that</p> <p>17 firm commitment offerings are guaranteed by</p> <p>18 the underwriter, is that fair to say --</p> <p>19 basically, is that a shorthand to say that</p> <p>20 firm commitment offering is a guarantee by</p> <p>21 the underwriter regarding a certain portion</p> <p>22 of the company shares of the company being</p> <p>23 offered?</p> <p>24 MR. WARD: Objection.</p> <p>25 Calls for speculation and</p>
<p style="text-align: right;">Page 70</p> <p>1 Rocco Guidici Pietro</p> <p>2 understanding that Alexander Capital was not</p> <p>3 authorized to conduct firm commitment</p> <p>4 offerings; is that correct?</p> <p>5 A. Underwritings, I believe, yes.</p> <p>6 Q. Underwritings?</p> <p>7 A. Yes.</p> <p>8 Q. All right. So is it fair to say</p> <p>9 that from 2013 through 2015, that you -- it</p> <p>10 was your understanding that Alexander Capital</p> <p>11 was authorized -- was not authorized to do</p> <p>12 firm commitment offerings; is that correct?</p> <p>13 A. Yes.</p> <p>14 Q. Do you know what a "best efforts</p> <p>15 offering" is?</p> <p>16 A. Yes.</p> <p>17 Q. And do you know whether best</p> <p>18 efforts offering is different than a firm</p> <p>19 commitment offering?</p> <p>20 A. Yes.</p> <p>21 Q. Could you explain, as best you can,</p> <p>22 what your understanding is of the difference?</p> <p>23 A. Firm commitment, the firm is</p> <p>24 committing to raise the money, and best</p> <p>25 efforts, it's a -- what it's -- the title</p>	<p style="text-align: right;">Page 72</p> <p>1 Rocco Guidici Pietro</p> <p>2 legal conclusion.</p> <p>3 MR. SCHLICHTMANN: Okay, I</p> <p>4 don't want to do that. So I</p> <p>5 withdraw the question.</p> <p>6 Q. Is it fair to characterize your</p> <p>7 understanding of what a firm commitment</p> <p>8 underwriting is, is that the underwriter</p> <p>9 guaranteed to purchase a certain amount of</p> <p>10 shares, whether or not there's interest in</p> <p>11 the market for those shares?</p> <p>12 A. It's hard to answer that question</p> <p>13 because there's a lot more that goes into</p> <p>14 that before you get to that point.</p> <p>15 Q. Okay. What do you mean by,</p> <p>16 "there's a lot that goes into that"?</p> <p>17 A. Well, I am saying if it's cleared</p> <p>18 by the SEC, and it's ready to trade, and that</p> <p>19 would -- at that point, the firm would be</p> <p>20 obligated to take the shares.</p> <p>21 Q. Yes, and I am just asking -- but I</p> <p>22 am just asking whether -- well, let me ask it</p> <p>23 this way: Is it consistent with your</p> <p>24 understanding, now, as you sit here, that a</p> <p>25 company seeking to be a potential customer of</p>

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<p style="text-align: right;">Page 73</p> <p>1 Rocco Guidici Pietro</p> <p>2 Alexander Capital, LP, regarding an intended</p> <p>3 initial public offering, whether they would</p> <p>4 -- it would be important to them to know</p> <p>5 whether Alexander Capital was -- had the</p> <p>6 authority to do a firm commitment offering,</p> <p>7 as opposed to a best effort offering, as you</p> <p>8 sit here today?</p> <p>9 A. We've done both in, you know, our</p> <p>10 intent to raise the money is the same, best</p> <p>11 efforts or firm commitment.</p> <p>12 Q. Right, but I am asking specifically</p> <p>13 as to your understanding as to whether a</p> <p>14 company that is seeking Alexander Capital's</p> <p>15 services for an initial public offering,</p> <p>16 whether it would be important to them, as you</p> <p>17 sit here today, as your understanding, that</p> <p>18 it would be important to them to know whether</p> <p>19 Alexander Capital could do a firm commitment</p> <p>20 offering, or whether they were restricted to</p> <p>21 doing just best efforts offerings?</p> <p>22 A. That would be up to the particular</p> <p>23 company.</p> <p>24 Q. Do you have an understanding as to</p> <p>25 why a company might consider that to be</p>	<p style="text-align: right;">Page 75</p> <p>1 Rocco Guidici Pietro</p> <p>2 MR. SCHLICHTMANN: Let me</p> <p>3 finish the question. Let me</p> <p>4 withdraw the question.</p> <p>5 Q. Do you have an understanding as to</p> <p>6 how a company that was interested in knowing</p> <p>7 whether Alexander Capital, LP, had the</p> <p>8 authority to conduct a firm commitment</p> <p>9 offering, where it could go to find out that</p> <p>10 information?</p> <p>11 A. I do not.</p> <p>12 Q. Do you know if that's available</p> <p>13 information from FINRA, to people in the</p> <p>14 public making inquiries about such a thing?</p> <p>15 A. I have never tried to get the</p> <p>16 information, so I don't know.</p> <p>17 Q. During 2013 to 2015, is it fair to</p> <p>18 say that you were not aware, during that</p> <p>19 time, whether companies that were interested</p> <p>20 in the services of Alexander Capital, LP, as</p> <p>21 to how they could obtain the information as</p> <p>22 to whether or not Alexander Capital, LP,</p> <p>23 during that time, was authorized by FINRA to</p> <p>24 conduct firm commitment offerings?</p> <p>25 A. I don't.</p>
<p style="text-align: right;">Page 74</p> <p>1 Rocco Guidici Pietro</p> <p>2 important or you don't?</p> <p>3 A. I don't.</p> <p>4 Q. Okay. Did you -- as you sit here</p> <p>5 today, do you consider that it's important</p> <p>6 for Alexander Capital, LP, in its dealings</p> <p>7 with a company that is seeking Alexander</p> <p>8 Capital to help them with an initial public</p> <p>9 offering, an intended one, that as you sit</p> <p>10 here today, do you consider it to be a</p> <p>11 responsibility or obligation of Alexander</p> <p>12 Capital to let that company know whether or</p> <p>13 not Alexander Capital has the authority to do</p> <p>14 a firm commitment offering?</p> <p>15 A. No, and the company should do their</p> <p>16 own due diligence and they would know what</p> <p>17 Alexander's capable of doing and not.</p> <p>18 Q. And is it your understanding that</p> <p>19 the -- that a company that's seeking the</p> <p>20 services of Alexander Capital, LP, has a way</p> <p>21 of determining whether Alexander Capital has</p> <p>22 the authority to do a firm commitment</p> <p>23 offering?</p> <p>24 Do you have an understanding --</p> <p>25 MR. WARD: Objection.</p>	<p style="text-align: right;">Page 76</p> <p>1 Rocco Guidici Pietro</p> <p>2 Q. You didn't have an understanding at</p> <p>3 that time; is that what you're saying?</p> <p>4 A. No, what I am saying is the -- at</p> <p>5 that time, I don't know how they could find</p> <p>6 out, if they could or not.</p> <p>7 Q. All right. Okay. Now, are you</p> <p>8 familiar with the name Alterix, Inc. or</p> <p>9 Inpellis, Inc.?</p> <p>10 Does that name come to your</p> <p>11 attention?</p> <p>12 A. Yes, somewhat familiar.</p> <p>13 Q. Do you -- is it -- what's your --</p> <p>14 well, did it come to your attention at some</p> <p>15 point that Alterix, Inc., also known as,</p> <p>16 Inpellis, Inc., had come to Alexander</p> <p>17 Capital, LP at some time regarding their</p> <p>18 desire to conduct an initial public offering?</p> <p>19 A. Yes.</p> <p>20 Q. And what's your understanding as to</p> <p>21 when they came to the company, Alexander</p> <p>22 Capital, LP?</p> <p>23 A. I don't know. I wasn't involved in</p> <p>24 any of the conversations or -- with the</p> <p>25 company.</p>

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<p style="text-align: right;">Page 77</p> <p>1 Rocco Guidici Pietro</p> <p>2 Q. I took that off, right, the</p> <p>3 document? Right? There's no document on the</p> <p>4 screen; is that correct?</p> <p>5 A. Right.</p> <p>6 Q. That's right, okay. Do you have</p> <p>7 any memory, at any time, that Mr. Gazdak, or</p> <p>8 anyone else at Alexander Capital brought to</p> <p>9 your attention that Alexander -- that</p> <p>10 Alterix, Inc., also known as Inpellis, Inc.,</p> <p>11 wished to be a customer or wished to talk to</p> <p>12 Alexander Capital about the services that it</p> <p>13 provided?</p> <p>14 A. I did not.</p> <p>15 Q. And I will show you a document, all</p> <p>16 right, and this is an e-mail from Chris</p> <p>17 Carlin to Patrick Mooney, dated July 24,</p> <p>18 2014. Do you see that?</p> <p>19 A. Yes.</p> <p>20 MR. WARD: What's the</p> <p>21 exhibit number?</p> <p>22 MR. SCHLICHTMANN: Sorry,</p> <p>23 very good. It is 54.</p> <p>24 Thank you. Exhibit 54.</p> <p>25 Q. All right, now we talked about</p>	<p style="text-align: right;">Page 79</p> <p>1 Rocco Guidici Pietro</p> <p>2 attention, or be part of your duties and</p> <p>3 responsibilities to know or not?</p> <p>4 A. No, absolutely not.</p> <p>5 Q. Okay. Were you familiar -- were</p> <p>6 you aware that Mr. Carlin and Mr. Mooney were</p> <p>7 contacted or -- excuse me.</p> <p>8 Were you aware that Mr. Carlin was</p> <p>9 contacted in 2014, by representatives of</p> <p>10 Alterix, Inc., also known as Inpellis, Inc.,</p> <p>11 at that time?</p> <p>12 A. No, I did not.</p> <p>13 Q. This Exhibit 54, it mentions Greg</p> <p>14 Kroning. Do you see this in the e-mail</p> <p>15 thread at the beginning? It's dated July 23,</p> <p>16 to Chris Carlin, from a Peyton Jackson. Do</p> <p>17 you see that?</p> <p>18 A. Yes.</p> <p>19 Q. Do you know who Peyton Jackson is?</p> <p>20 A. I know the name, yes.</p> <p>21 Q. How do you know the name?</p> <p>22 A. He worked for Alexander Capital for</p> <p>23 a period of time.</p> <p>24 Q. Were you aware of the fact that Mr.</p> <p>25 Jackson -- is it Mr. or Mrs.?</p>
<p style="text-align: right;">Page 78</p> <p>1 Rocco Guidici Pietro</p> <p>2 Mr. Carlin and your knowledge of him. Do you</p> <p>3 see the name Patrick Mooney?</p> <p>4 A. Yes.</p> <p>5 Q. All right. Is that name familiar</p> <p>6 to you?</p> <p>7 A. Somewhat familiar, yes.</p> <p>8 Q. What is your understanding -- did</p> <p>9 you have an understanding between 2014 and</p> <p>10 2015, as to whether or not Mr. Mooney had any</p> <p>11 kind of relationship with Alexander Capital,</p> <p>12 LP, in any form?</p> <p>13 A. Yes, I believe he was a registered</p> <p>14 rep.</p> <p>15 Q. That Mr. Mooney was a registered</p> <p>16 rep?</p> <p>17 A. Yes.</p> <p>18 Q. And are you familiar with whether</p> <p>19 Mr. Mooney was providing consulting services</p> <p>20 to Alexander Capital, or whether he was an</p> <p>21 actual employee of Alexander Capital at that</p> <p>22 time?</p> <p>23 A. I am not sure.</p> <p>24 Q. As chief operating officer, would</p> <p>25 that be something that would come to your</p>	<p style="text-align: right;">Page 80</p> <p>1 Rocco Guidici Pietro</p> <p>2 A. Mr.</p> <p>3 Q. Mr. Jackson contacted Mr. Carlin</p> <p>4 about an interest -- about Biochemics or</p> <p>5 anyone associated with Alterix Inc.?</p> <p>6 A. No, I did not.</p> <p>7 Q. And it says later on, on July 24th,</p> <p>8 in this e-mail thread, Peyton Jackson to</p> <p>9 Chris Carlin, subject, Biochemics, slash,</p> <p>10 Alterix. It says, "On the phone with Marvin</p> <p>11 Rosen right now."</p> <p>12 Do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. "He really wants to cultivate our</p> <p>15 shop."</p> <p>16 Do you see that?</p> <p>17 A. Yes.</p> <p>18 Q. Do you know who Marvin Rosen is?</p> <p>19 A. I do not.</p> <p>20 Q. Did you know that Marvin Rosen was</p> <p>21 an attorney for Greenberg Traurig?</p> <p>22 A. I did not.</p> <p>23 Q. Were you familiar with the firm</p> <p>24 Greenberg Traurig in 2013 to 2015?</p> <p>25 A. I know the name. I know the firm</p>

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<p style="text-align: right;">Page 81</p> <p>1 Rocco Guidici Pietro</p> <p>2 but...</p> <p>3 Q. Are you aware whether or not</p> <p>4 Greenberg Traurig became counsel to Alexander</p> <p>5 Capital in the 2014/2015 period, regarding</p> <p>6 the intended offering of Alterix, Inc., also</p> <p>7 known as, Inpellis, Inc.?</p> <p>8 A. I did not.</p> <p>9 Q. Is that news to you today, as we</p> <p>10 sit here?</p> <p>11 A. Yes, I didn't -- I don't remember</p> <p>12 who our accountant -- we used a lot of</p> <p>13 attorneys.</p> <p>14 Q. All right. I am putting on the</p> <p>15 screen Plaintiff's Exhibit 59. Do you see</p> <p>16 that? It's an e-mail from Patrick Mooney to</p> <p>17 Jonathan Gazdak, dated July 29, 2014. Do you</p> <p>18 see that?</p> <p>19 A. Yes.</p> <p>20 Q. The attachment is "Alterix EA</p> <p>21 document."</p> <p>22 Do you see that? Yes?</p> <p>23 A. Yes.</p> <p>24 Q. And did you understand that "EA"</p> <p>25 was often used as a shorthand expression for</p>	<p style="text-align: right;">Page 83</p> <p>1 Rocco Guidici Pietro</p> <p>2 Q. I am now going to show you the</p> <p>3 attachment to that e-mail that Mr. Mooney</p> <p>4 asked Mr. Gazdak to eyeball. Do you</p> <p>5 recognize the Alexander Capital, LP</p> <p>6 letterhead?</p> <p>7 A. Yes.</p> <p>8 Q. And you see that the -- the date is</p> <p>9 July 2014. Do you see that?</p> <p>10 A. No, it's blocked by you, your</p> <p>11 picture.</p> <p>12 Q. Okay. Do you see it over here</p> <p>13 where the pointer is?</p> <p>14 A. Yeah, no, it's covered. I see July</p> <p>15 2. That's all I can see.</p> <p>16 Q. Really, okay.</p> <p>17 MR. WARD: It's screen</p> <p>18 dependent. I can see it on my end.</p> <p>19 MR. SCHLICHTMANN: Let me</p> <p>20 shrink it a little bit here.</p> <p>21 Q. Did that help?</p> <p>22 A. Yes.</p> <p>23 Q. Can you now see July 29, 2014?</p> <p>24 A. Yes.</p> <p>25 Q. All right. And you see it's made</p>
<p style="text-align: right;">Page 82</p> <p>1 Rocco Guidici Pietro</p> <p>2 "engagement agreement"?</p> <p>3 A. No, but it makes sense to me.</p> <p>4 Q. All right. And you see that Mr.</p> <p>5 Mooney is saying, "Can you quickly eyeball</p> <p>6 this"? to Mr. Gazdak? Do you see that?</p> <p>7 A. Yes.</p> <p>8 Q. And was it your understanding that</p> <p>9 Mr. Gazdak, as head of investment banking,</p> <p>10 would be -- had the supervisory</p> <p>11 responsibility at Alexander Capital regarding</p> <p>12 any offering or intended offering by a</p> <p>13 company in which Alexander Capital was</p> <p>14 intended to be the underwriter?</p> <p>15 A. I'm not sure what his supervisory</p> <p>16 was at the point.</p> <p>17 Q. Was it your understanding that Mr.</p> <p>18 Gazdak, as head of investment banking, would</p> <p>19 be the person responsible for that particular</p> <p>20 engagement with a company where Alexander</p> <p>21 Capital's intended to be the underwriter</p> <p>22 regarding an initial public offering?</p> <p>23 A. He would be the contact person, and</p> <p>24 from that point on, I'm not sure what his</p> <p>25 procedures were.</p>	<p style="text-align: right;">Page 84</p> <p>1 Rocco Guidici Pietro</p> <p>2 out to Marshal Sterman, CEO of Alterix, Inc.?</p> <p>3 Do you see that?</p> <p>4 A. Yes.</p> <p>5 Q. And are you familiar with the name</p> <p>6 Marshal Sterman at all?</p> <p>7 A. I am not.</p> <p>8 Q. Okay. You were familiar with the</p> <p>9 name Alterix, Inc., at some point; is that</p> <p>10 correct?</p> <p>11 A. I heard the name. Not familiar</p> <p>12 with the company.</p> <p>13 Q. Is it your understanding or is it</p> <p>14 your memory that at some point Alterix, Inc.,</p> <p>15 also known as Inpellis, Inc., entered into an</p> <p>16 engagement agreement with Alexander Capital</p> <p>17 regarding an intended offering?</p> <p>18 A. At this point, I know that.</p> <p>19 Q. Okay. During 2014, 2015, did you</p> <p>20 know that?</p> <p>21 A. I did not.</p> <p>22 Q. Okay. Now, you will see that this</p> <p>23 is -- Mr. Mooney is making corrections to</p> <p>24 another draft to that -- for another company.</p> <p>25 Do you see that company's been crossed out</p>

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<p style="text-align: right;">Page 85</p> <p>1 Rocco Guidici Pietro</p> <p>2 and replaced with Alterix, Inc.? Do you see</p> <p>3 that?</p> <p>4 A. Yes.</p> <p>5 Q. You see the other company was</p> <p>6 Stream T.V. Networks, Inc.? Do you see that?</p> <p>7 A. Yes.</p> <p>8 Q. Are you familiar with the name</p> <p>9 Stream T.V. Networks, Inc., as being a</p> <p>10 potential or former customer of Alexander</p> <p>11 Capital?</p> <p>12 A. Yes, I am.</p> <p>13 Q. What are you familiar with?</p> <p>14 A. We've done some private raises for</p> <p>15 them.</p> <p>16 Q. Do you know if Alexander Capital</p> <p>17 and Stream T.V. Networks, Inc., ever entered</p> <p>18 into an engagement agreement, in 2014,</p> <p>19 regarding an intended offering by Stream</p> <p>20 T.V.?</p> <p>21 A. I do not know.</p> <p>22 Q. Now, this is an agreement -- are</p> <p>23 you familiar with the engagement</p> <p>24 agreements -- for whatever reason, did you</p> <p>25 become familiar during 2014 and 2015, with</p>	<p style="text-align: right;">Page 87</p> <p>1 Rocco Guidici Pietro</p> <p>2 A. Yes.</p> <p>3 Q. And it states, "It is our intent</p> <p>4 immediately prior to the effective date to</p> <p>5 enter into an exclusive underwriting</p> <p>6 agreement, the underwriting agreement, with</p> <p>7 the company," referring to Alterix Inc., "the</p> <p>8 underwriter, slash, broker will act as agent</p> <p>9 on a firm commitment basis."</p> <p>10 Do you see that?</p> <p>11 A. Yes.</p> <p>12 Q. "And the underwriting agreement and</p> <p>13 related agreements shall contain such terms</p> <p>14 and conditions as are customarily contained</p> <p>15 in agreements of such character and among</p> <p>16 other things provided for the following." Do</p> <p>17 you see that?</p> <p>18 A. Yes.</p> <p>19 Q. Now, is this consistent -- is that</p> <p>20 paragraph consistent with your understanding</p> <p>21 of the types of engagement agreements that</p> <p>22 Alexander Capital was offering potential</p> <p>23 customers of Alexander Capital, in 2014?</p> <p>24 A. No, I have never seen any of the</p> <p>25 engagement letters.</p>
<p style="text-align: right;">Page 86</p> <p>1 Rocco Guidici Pietro</p> <p>2 the engagement agreement that Alexander</p> <p>3 Capital, LP was entering into with companies</p> <p>4 that intended to conduct an offering?</p> <p>5 A. I do not. I was not familiar with</p> <p>6 it.</p> <p>7 Q. Now, just looking at this first</p> <p>8 paragraph, "We are pleased to submit the</p> <p>9 following proposal with respect to an initial</p> <p>10 public offering, the public offering, by</p> <p>11 Alterix Inc." Do you see that?</p> <p>12 A. Yes.</p> <p>13 Q. "Of up to \$20 million, consisting</p> <p>14 of the company's common shares." Do you see</p> <p>15 that?</p> <p>16 A. Yes.</p> <p>17 Q. "The price and term of which shall</p> <p>18 be determined by the market price to the</p> <p>19 effective date of the offering closing."</p> <p>20 A. Yes.</p> <p>21 Q. "This letter states certain</p> <p>22 conditions and assumptions upon the proposed</p> <p>23 offering by Alexander Capital, LP, Alexander</p> <p>24 Capital."</p> <p>25 Do you see that?</p>	<p style="text-align: right;">Page 88</p> <p>1 Rocco Guidici Pietro</p> <p>2 Q. And, in 2014, you have previously</p> <p>3 testified, correct, that as of that time, as</p> <p>4 of the date of this draft, proposed draft,</p> <p>5 July 2014, it is true, according your</p> <p>6 knowledge, that Alexander Capital did not</p> <p>7 have authorization from FINRA to participate</p> <p>8 in any firm commitment offering; is that</p> <p>9 correct?</p> <p>10 A. Yes.</p> <p>11 Q. Now, as chief operating officer,</p> <p>12 and based on your knowledge and understanding</p> <p>13 of the operations of Alexander Capital, are</p> <p>14 you aware as to whether or not Alexander</p> <p>15 Capital, LP, its management, its supervisors,</p> <p>16 its owners, ever took any steps to inform the</p> <p>17 investment banking section of Alexander</p> <p>18 Capital, as to the fact that Alexander</p> <p>19 Capital did not have the -- FINRA's authority</p> <p>20 to conduct a firm commitment offering?</p> <p>21 MR. WARD: Objection.</p> <p>22 Misleading and misstates prior</p> <p>23 testimony.</p> <p>24 MR. SCHLICHTMANN: Okay, I</p> <p>25 want to be very clear.</p>

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<p style="text-align: right;">Page 89</p> <p>1 Rocco Guidici Pietro</p> <p>2 MR. WARD: And assumes facts</p> <p>3 not in the record.</p> <p>4 MR. SCHLICHTMANN: Okay.</p> <p>5 Q. So, Mr. Guidici Pietro, are you</p> <p>6 aware as to whether or not Alexander Capital</p> <p>7 took any steps of any kind, in 2014 -- 2013,</p> <p>8 2014, or 2015, to inform the investment</p> <p>9 banking head of Alexander Capital, as to</p> <p>10 whether or -- as to the fact that Alexander</p> <p>11 Capital did not have authorization from FINRA</p> <p>12 to conduct firm commitment offerings?</p> <p>13 MR. WARD: Objection.</p> <p>14 Ambiguous and misstates prior</p> <p>15 testimony.</p> <p>16 MR. SCHLICHTMANN: All</p> <p>17 right, I am not referring to any</p> <p>18 prior testimony and I don't want to</p> <p>19 be ambiguous.</p> <p>20 Q. Mr. Guidici Pietro -- so I withdraw</p> <p>21 the question.</p> <p>22 Mr. Guidici Pietro, are you aware of</p> <p>23 anything that Alexander Capital did, during</p> <p>24 2013, 2014, and 2015, to inform Mr. Gazdak,</p> <p>25 the head of investment banking at Alexander</p>	<p style="text-align: right;">Page 91</p> <p>1 Rocco Guidici Pietro</p> <p>2 of Alexander Capital and its operations and</p> <p>3 procedures, can you tell us how Mr. Gazdak</p> <p>4 could have been made aware of the fact that</p> <p>5 Alexander Capital, in 2014 and 2015, did not</p> <p>6 have the authority from FINRA to conduct a</p> <p>7 firm commitment offering at that time?</p> <p>8 A. I -- again, I don't want to</p> <p>9 speculate. It could have been from multiple</p> <p>10 sources. Compliance, FINRA.</p> <p>11 Q. All right. So one of the things</p> <p>12 that Mr. Gazdak could have done is to have a</p> <p>13 communication with the chief compliance</p> <p>14 officer at Alexander Capital?</p> <p>15 A. Correct.</p> <p>16 Q. To your knowledge, during 2014 and</p> <p>17 2015, did the chief compliance officer -- to</p> <p>18 your knowledge, was Tim Stack, who was chief</p> <p>19 compliance officer at that time, did Mr.</p> <p>20 Stack have the knowledge that Alexander</p> <p>21 Capital did not have FINRA's authority to</p> <p>22 conduct firm commitment offerings?</p> <p>23 MR. WARD: Objection.</p> <p>24 Misstates prior testimony.</p> <p>25 A. I don't know if he had knowledge.</p>
<p style="text-align: right;">Page 90</p> <p>1 Rocco Guidici Pietro</p> <p>2 Capital, that Alexander Capital did not have</p> <p>3 the authority from FINRA to conduct firm</p> <p>4 commitment offerings at that time?</p> <p>5 MR. WARD: Objection.</p> <p>6 Ambiguous and assumes facts</p> <p>7 not in evidence.</p> <p>8 Q. You may answer.</p> <p>9 A. Not what we did, specifically, to</p> <p>10 let him know, but he should know.</p> <p>11 Q. All right. Why should he know?</p> <p>12 A. Because he is the head of banking.</p> <p>13 Q. Okay. And how would Mr. Gazdak,</p> <p>14 based on your knowledge and understanding of</p> <p>15 the operations of Alexander Capital, LP, in</p> <p>16 2014 and 2015, how could Mr. Gazdak become</p> <p>17 aware that Alexander Capital, at that time,</p> <p>18 did not have authority from FINRA to conduct</p> <p>19 a firm commitment offering?</p> <p>20 A. I don't want to speculate.</p> <p>21 MR. WARD: Objection.</p> <p>22 Yeah, calls for speculation.</p> <p>23 A. I don't want to speculate.</p> <p>24 Q. All right. Well, I don't want you</p> <p>25 to speculate, but based on your understanding</p>	<p style="text-align: right;">Page 92</p> <p>1 Rocco Guidici Pietro</p> <p>2 Q. All right. So, is it fair to say</p> <p>3 that you, as you sit here today, you do not</p> <p>4 know whether Mr. Stack, in 20- -- the chief</p> <p>5 compliance officer at Alexander Capital, in</p> <p>6 2014 and 2015, was aware that Alexander</p> <p>7 Capital did not have the authority from FINRA</p> <p>8 to conduct a firm commitment offering at that</p> <p>9 time?</p> <p>10 MR. WARD: Objection.</p> <p>11 Misstates the record.</p> <p>12 A. Sorry, Bryan. I was going to say,</p> <p>13 I can't answer for Mr. Stack. I don't know</p> <p>14 what he knew or didn't know in 2014.</p> <p>15 Q. Do you have any reason to believe,</p> <p>16 as you sit here today, that Mr. Stack, during</p> <p>17 2014 to 2015, was aware that FINRA -- that</p> <p>18 Alexander Capital did not have the authority</p> <p>19 from FINRA to conduct firm commitment</p> <p>20 offerings at that time?</p> <p>21 A. I don't know.</p> <p>22 Q. All right. Okay. During 2014 and</p> <p>23 2015, Mr. Guidici Pietro, did you become aware</p> <p>24 as to whether or not registration statements</p> <p>25 were being filed on behalf of Alterix and</p>

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<p style="text-align: right;">Page 93</p> <p>1 Rocco Guidici Pietro</p> <p>2 Inpellis, in which Alexander Capital was the</p> <p>3 intended underwriter, whether they were</p> <p>4 confidential filings or public filings? Were</p> <p>5 you aware of that during any time during 2014</p> <p>6 to 2015?</p> <p>7 A. Not to my knowledge. Not to my</p> <p>8 memory.</p> <p>9 Q. Are you -- during 2014, '15 --</p> <p>10 during 2014/2015, did you have an</p> <p>11 understanding as to whether or not Alexander</p> <p>12 Capital had an obligation to inform FINRA</p> <p>13 about a registration statement filing, if it</p> <p>14 had filed, that had been filed on a company</p> <p>15 regarding a company in which it was the</p> <p>16 intended underwriter?</p> <p>17 A. I do not know.</p> <p>18 Q. Are you aware of the fact that</p> <p>19 there's an application process that FINRA has</p> <p>20 for intended underwriters to inform FINRA of</p> <p>21 registrations that it was intending to file</p> <p>22 or had filed?</p> <p>23 A. No, that is not my area.</p> <p>24 Q. All right. All right. I am going</p> <p>25 to show you an Exhibit 142. All right. And</p>	<p style="text-align: right;">Page 95</p> <p>1 Rocco Guidici Pietro</p> <p>2 Q. Okay. Previously you mentioned</p> <p>3 that you were aware of a CMA, right, a</p> <p>4 continuing membership application; is that</p> <p>5 correct?</p> <p>6 A. Yes.</p> <p>7 Q. Now, I am showing you Plaintiff's</p> <p>8 Exhibit -- hopefully, you can see it on the</p> <p>9 screen -- Plaintiff's Exhibit 142A, the</p> <p>10 attachment to the e-mail we just went over.</p> <p>11 Do you see this?</p> <p>12 A. Yes, I see it.</p> <p>13 Q. It's dated April 10, 2015, and it's</p> <p>14 on FINRA letterhead, and it's an electronic</p> <p>15 application. Do you recognize that as a form</p> <p>16 of application you are familiar with, a FINRA</p> <p>17 application that underwriters, from time to</p> <p>18 time, file with FINRA, or you don't recognize</p> <p>19 it as such?</p> <p>20 A. I don't recognize it. I have never</p> <p>21 seen this form.</p> <p>22 Q. All right, well, this is a filing</p> <p>23 that was filed by Greenberg on behalf of</p> <p>24 Alexander Capital, regarding the Alterix,</p> <p>25 Inc., also known as, Inpellis, Inc., intended</p>
<p style="text-align: right;">Page 94</p> <p>1 Rocco Guidici Pietro</p> <p>2 share screen on that document. All right.</p> <p>3 Do you see on the screen an e-mail? Do you</p> <p>4 see that?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. It's from a lawyer from</p> <p>7 Greenberg Traurig, dated April 10, 2015, to a</p> <p>8 Mr. Gazdak -- to Mr. Gazdak at Alexander</p> <p>9 Capital, and Mr. Mooney, and Mr. Carlin. Do</p> <p>10 you see that?</p> <p>11 A. Yes.</p> <p>12 Q. In 2015, were you aware of the fact</p> <p>13 that Mr. Mooney, Mr. Carlin, and Mr. Gazdak</p> <p>14 were involved in communications with</p> <p>15 Greenberg Traurig regarding the Alterix</p> <p>16 offering in which Alexander Capital was the</p> <p>17 intended underwriter, or you were not aware?</p> <p>18 A. No, I wasn't aware. I don't</p> <p>19 remember.</p> <p>20 Q. Now, in this e-mail dated April 10,</p> <p>21 2015, the subject is "Alterix FINRA filing."</p> <p>22 It has an attachment of that filing, dated</p> <p>23 April 10, 2015.</p> <p>24 Do you see that?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 96</p> <p>1 Rocco Guidici Pietro</p> <p>2 offering, all right, and it's dated April 10,</p> <p>3 2015. And it describes the -- it fills out</p> <p>4 various information requested by Alexander --</p> <p>5 excuse me -- by FINRA, regarding the</p> <p>6 offering.</p> <p>7 Were you aware -- are you aware</p> <p>8 now, as you sit here today, that Alexander</p> <p>9 Capital has an obligation to file with FINRA</p> <p>10 some sort of an application to determine the</p> <p>11 reasonableness of its fee regarding an</p> <p>12 intended fee it accepts -- it expects to</p> <p>13 charge for an intended offering that it's</p> <p>14 conducting or intended as the underwriter?</p> <p>15 A. No, I -- I -- I don't know. I am</p> <p>16 not familiar with the banking procedures.</p> <p>17 Q. All right. Okay. Okay. I am now</p> <p>18 showing you another document. This is</p> <p>19 Plaintiff's Exhibit 143. And this is dated</p> <p>20 May 15, 2015. Do you see that?</p> <p>21 A. Yes.</p> <p>22 Q. And it's from a Mr. Marsico at</p> <p>23 Greenberg.</p> <p>24 Do you see that?</p> <p>25 A. Yes.</p>

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<p style="text-align: right;">Page 97</p> <p>1 Rocco Guidicipietro</p> <p>2 Q. Okay. Now, are you familiar with</p> <p>3 the fact that Mr. Marsico is an attorney at</p> <p>4 Greenberg, in 2015?</p> <p>5 A. No, I am not.</p> <p>6 Q. Were you familiar with the fact</p> <p>7 that Mr. Marsico is an attorney with</p> <p>8 Greenberg -- was representing Alexander</p> <p>9 Capital as the intended underwriter on the</p> <p>10 intended Alterix/Inpellis offering at that</p> <p>11 time?</p> <p>12 A. No, I am not.</p> <p>13 Q. You see this is to Mr. Gazdak,</p> <p>14 Mooney, and Mr. Carlin? Do you see that?</p> <p>15 A. Yes.</p> <p>16 Q. The subject is "unreasonable</p> <p>17 letter," with a filing ID, and then it has an</p> <p>18 attachment, "Alterix-FINRA, unreasonable</p> <p>19 letter, May 15, 2015."</p> <p>20 Do you see that?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. Does looking at this e-mail</p> <p>23 refresh your recollection in any way as to</p> <p>24 whether or not you were made aware, in 2015,</p> <p>25 that there was an unreasonable letter issued</p>	<p style="text-align: right;">Page 99</p> <p>1 Rocco Guidicipietro</p> <p>2 above-referenced filing, the corporate</p> <p>3 financing department, department, has</p> <p>4 reviewed the information and documents</p> <p>5 submitted through FINRA's public offering</p> <p>6 filing system."</p> <p>7 Do you see that?</p> <p>8 A. Yes.</p> <p>9 Q. Are you familiar with the fact that</p> <p>10 FINRA has a public offering filing system?</p> <p>11 A. No, I am not.</p> <p>12 Q. Were you aware of it in 2015?</p> <p>13 A. No.</p> <p>14 Q. Okay. And it says, "Based on the</p> <p>15 information provided, the proposed</p> <p>16 compensation accruing to the, quote,</p> <p>17 "underwriter and related persons," end quote,</p> <p>18 as defined in FINRA Rule 1510 is in the</p> <p>19 aggregate excessive for an offering of this</p> <p>20 size and nature, and therefore, must be</p> <p>21 modified to ensure compliance." Do you see</p> <p>22 that?</p> <p>23 A. Yes.</p> <p>24 Q. And it then lists various</p> <p>25 components of the intended compensation</p>
<p style="text-align: right;">Page 98</p> <p>1 Rocco Guidicipietro</p> <p>2 by FINRA on May 15, 2015, regarding the</p> <p>3 Alterix, also known as, Inpellis, Inc.,</p> <p>4 intended offering?</p> <p>5 A. Not that I recall, no.</p> <p>6 Q. All right. Okay, I am now going to</p> <p>7 show you a document. This is Exhibit 143A.</p> <p>8 All right, this is the attachment to the</p> <p>9 previous e-mail that we just looked at. And</p> <p>10 it's on FINRA letterhead.</p> <p>11 Do you see that?</p> <p>12 A. Yes.</p> <p>13 Q. Dated May 15, 2015. Do you see</p> <p>14 that?</p> <p>15 A. Yes.</p> <p>16 Q. And it's addressed to Greenberg</p> <p>17 Taurig, attention Anthony Marsico. Do you</p> <p>18 see that?</p> <p>19 A. Yes.</p> <p>20 Q. It says, "re, unreasonable letter,</p> <p>21 FINRA filing," with ID number, and then the</p> <p>22 name Alterix, Inc. Do you see that?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. And it states, "Dear</p> <p>25 sir/madam, in connection with the</p>	<p style="text-align: right;">Page 100</p> <p>1 Rocco Guidicipietro</p> <p>2 package. Later on in this letter -- first of</p> <p>3 all, in looking at this letter, beginning</p> <p>4 part of the letter, does that refresh your</p> <p>5 recollection at all as to whether you ever</p> <p>6 saw an unreasonable letter regarding the</p> <p>7 Alterix offering that Alexander Capital</p> <p>8 intended to be the underwriter, or you have</p> <p>9 no such memory?</p> <p>10 A. No such memory.</p> <p>11 Q. You see later on in this letter, a</p> <p>12 number 6. It says, "In connection with the</p> <p>13 filing received for Alexander Capital, LP,</p> <p>14 the sole book-running manager identified in</p> <p>15 the offering documents, the department</p> <p>16 suggests the firm contact their district</p> <p>17 office to discuss their participation in this</p> <p>18 offering and obtain approval to underwrite</p> <p>19 this offering on a firm commitment basis."</p> <p>20 Do you see that?</p> <p>21 A. Yes, I see that.</p> <p>22 Q. Do you -- were you ever made aware,</p> <p>23 in 2015, that FINRA notified Alexander</p> <p>24 Capital that it did not have the approval to</p> <p>25 underwrite the Alterix, Inc., also known as,</p>

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<p style="text-align: right;">Page 101</p> <p>1 Rocco Guidici Pietro</p> <p>2 Inpellis, Inc., offering on a firm commitment</p> <p>3 basis?</p> <p>4 A. No.</p> <p>5 Q. As you sit here today, do you have</p> <p>6 any reason to believe that that occurred?</p> <p>7 A. I see the letter.</p> <p>8 Q. Is this the first indication that</p> <p>9 you remember receiving regarding this matter?</p> <p>10 A. Yes.</p> <p>11 Q. Based on your understanding of the</p> <p>12 practices and procedures of Alexander</p> <p>13 Capital, if FINRA had informed Alexander</p> <p>14 Capital, in 2015, that it did not have the</p> <p>15 authority to commit a firm commitment</p> <p>16 offering regarding the Alterix, also known</p> <p>17 as, Inpellis, Inc., offering, that that is a</p> <p>18 matter, based on the practices and procedures</p> <p>19 of Alexander Capital in place at that time,</p> <p>20 that should have been brought to your</p> <p>21 attention?</p> <p>22 A. That's handled by our banking team</p> <p>23 and lawyers. As you see, the letter is</p> <p>24 addressed to our attorney.</p> <p>25 Q. And was not a matter that under the</p>	<p style="text-align: right;">Page 103</p> <p>1 Rocco Guidici Pietro</p> <p>2 left?</p> <p>3 MR. SCHLICHTMANN: It's -- I</p> <p>4 mean, I think we're getting through</p> <p>5 it, but, you know, I think it -- I</p> <p>6 think you are pretty familiar with</p> <p>7 the stuff I go through, so, yeah,</p> <p>8 hopefully, it will go as fast as we</p> <p>9 can, but, you know, I have --</p> <p>10 THE WITNESS: You wanted to</p> <p>11 go to 12:30. 12:30?</p> <p>12 MR. SCHLICHTMANN: You tell</p> <p>13 me whatever is comfortable. I</p> <p>14 don't want you to, you know, I want</p> <p>15 you to be comfortable to have a</p> <p>16 lunch break, and your attorney to</p> <p>17 be comfortable.</p> <p>18 MR. WARD: Let's take a</p> <p>19 break for lunch and then come back.</p> <p>20 MR. SCHLICHTMANN: The</p> <p>21 length, though, Bryan, how long?</p> <p>22 MR. WARD: An hour.</p> <p>23 MR. SCHLICHTMANN: That's</p> <p>24 fine with me, if that's what you</p> <p>25 wish to do. Yeah, so, 1 o'clock.</p>
<p style="text-align: right;">Page 102</p> <p>1 Rocco Guidici Pietro</p> <p>2 practices and procedures of Alexander</p> <p>3 Capital, in existence at that time, that was</p> <p>4 not a matter that should have been brought to</p> <p>5 your attention at that time?</p> <p>6 A. It seems like it was an ongoing</p> <p>7 negotiation, so I don't know what was stated</p> <p>8 to FINRA at that time.</p> <p>9 Q. Right. But my question is: Is it</p> <p>10 your -- based on your understanding of the</p> <p>11 practices and procedures at that time, in</p> <p>12 2015, that it was not -- it was not a matter</p> <p>13 that needed to be brought to your attention</p> <p>14 for any reason?</p> <p>15 A. Correct.</p> <p>16 MR. WARD: It's been another</p> <p>17 hour since the last break. It's</p> <p>18 past twelve. What are you thinking</p> <p>19 about lunch?</p> <p>20 MR. SCHLICHTMANN: You tell</p> <p>21 me what you and the witness would</p> <p>22 prefer, and I will do whatever you</p> <p>23 think is appropriate.</p> <p>24 MR. WARD: How much, just as</p> <p>25 an estimate, do you think you have</p>	<p style="text-align: right;">Page 104</p> <p>1 Rocco Guidici Pietro</p> <p>2 That's a little shy of an hour.</p> <p>3 MR. WARD: 1:10.</p> <p>4 MR. SCHLICHTMANN: Oh, 1:10,</p> <p>5 then. Fine. That's what it will</p> <p>6 be. 1:10, we will come back.</p> <p>7 THE VIDEOGRAPHER: Off the</p> <p>8 record. The time is 12:09.</p> <p>9 (Whereupon, a lunch recess</p> <p>10 was taken at 12:09 p.m.)</p> <p>11 THE VIDEOGRAPHER: We are</p> <p>12 now back on the record. The time</p> <p>13 is 1:11 p.m.</p> <p>14 BY MR. SCHLICHTMANN:</p> <p>15 Q. Mr. Guidici Pietro, I -- do you see</p> <p>16 on your screen a document, FINRA application</p> <p>17 document with a title "continuing member</p> <p>18 application"?</p> <p>19 A. Yes.</p> <p>20 Q. And, previously, you said you were</p> <p>21 familiar with the CMA or the continuing</p> <p>22 membership application; is that correct?</p> <p>23 A. I was -- I'm familiar with the term</p> <p>24 "continuing member application."</p> <p>25 Q. That's right. And in looking at</p>

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<p style="text-align: right;">Page 105</p> <p>1 Rocco Guidici Pietro</p> <p>2 this document, which has been marked as 1- --</p> <p>3 135, Plaintiff's Exhibit 135, does that front</p> <p>4 page of it -- is that familiar to you as an</p> <p>5 electronic continuing member application form</p> <p>6 that FINRA has available to applicants?</p> <p>7 A. No.</p> <p>8 Q. In June, in 2015, do you have any</p> <p>9 memory of being involved in any effort to</p> <p>10 file a continuing member application with</p> <p>11 FINRA, in 2015?</p> <p>12 A. I wasn't involved in the filing.</p> <p>13 Our attorneys did it.</p> <p>14 Q. Okay. Were you involved in any way</p> <p>15 in the preparation of it?</p> <p>16 A. No.</p> <p>17 Q. Were you involved in any</p> <p>18 discussions at Alexander Capital regarding</p> <p>19 the contents of it?</p> <p>20 A. No.</p> <p>21 Q. Now, going to now -- this is dated</p> <p>22 June 3, 2015. And I am going to go to page</p> <p>23 four, in which there's a narrative. You see</p> <p>24 this block here? It's an answer to a</p> <p>25 question, "Provided a complete description of</p>	<p style="text-align: right;">Page 107</p> <p>1 Rocco Guidici Pietro</p> <p>2 represented Alexander Capital regarding its</p> <p>3 1017 application to FINRA, in 2015?</p> <p>4 A. Yes.</p> <p>5 Q. And -- all right. Now, in this</p> <p>6 narrative it says, in response to the</p> <p>7 application question about providing a</p> <p>8 description of the proposed change, it</p> <p>9 states, "Nesa Management, LLC, Nesa, seeks to</p> <p>10 purchase an additional 71" -- "75.1 percent</p> <p>11 of Alexander Capital, LP, the firm, from</p> <p>12 Exitus, LLC, resulting in Nesa owning 100</p> <p>13 percent of Alexander Capital, LP." Do you</p> <p>14 see that?</p> <p>15 A. Yes.</p> <p>16 Q. Now, based on your knowledge and</p> <p>17 understanding, is that a true statement, as</p> <p>18 of that time?</p> <p>19 A. Yes, at that time.</p> <p>20 Q. "The transaction is expected to be</p> <p>21 completed thirty days after FINRA approval of</p> <p>22 the CMA, with Nesa paying \$50,000 to Exitus,</p> <p>23 LLC."</p> <p>24 Was that your understanding at the</p> <p>25 time?</p>
<p style="text-align: right;">Page 106</p> <p>1 Rocco Guidici Pietro</p> <p>2 the proposed change."</p> <p>3 Do you see that?</p> <p>4 A. Yes.</p> <p>5 Q. Okay.</p> <p>6 MR. WARD: What's the</p> <p>7 exhibit number?</p> <p>8 MR. SCHLICHTMANN: I'm</p> <p>9 sorry, 135.</p> <p>10 MR. WARD: Okay.</p> <p>11 MR. SCHLICHTMANN: All</p> <p>12 right. We agree, Bryan? There's</p> <p>13 no issue about that?</p> <p>14 MR. WARD: 135, yeah, okay.</p> <p>15 MR. SCHLICHTMANN: Got it,</p> <p>16 okay.</p> <p>17 Q. All right. Now, there's a</p> <p>18 narrative given, and first of all, are you</p> <p>19 familiar with the law firm Sichenzia Ross?</p> <p>20 A. I know the name.</p> <p>21 Q. Okay. Ross Carmel, does that mean</p> <p>22 anything to you?</p> <p>23 A. Yes, one of their attorneys.</p> <p>24 Q. Were you aware of the fact that in</p> <p>25 2015, Sichenzia Ross, the law firm,</p>	<p style="text-align: right;">Page 108</p> <p>1 Rocco Guidici Pietro</p> <p>2 Is that consistent with your</p> <p>3 understanding at the time?</p> <p>4 A. Yes.</p> <p>5 Q. "A copy of the purchase agreement</p> <p>6 is annexed hereto. The source of the funding</p> <p>7 will be Nesa with Joseph Amato and Rocco</p> <p>8 Guidici Pietro as the sole members." And the</p> <p>9 source of funding is the purchase of the</p> <p>10 interest; is that your understanding?</p> <p>11 A. Yes.</p> <p>12 Q. All right. "There will be no</p> <p>13 change in financial, operational, managerial,</p> <p>14 or supervisory control as a result of the</p> <p>15 change of ownership."</p> <p>16 Is that consistent with your</p> <p>17 understanding as of that time?</p> <p>18 A. That's what's stated there.</p> <p>19 Q. Do you have any reason to -- is</p> <p>20 that -- do you consider that to be an</p> <p>21 accurate statement, based on your</p> <p>22 understanding of -- at the time?</p> <p>23 A. Yes.</p> <p>24 Q. It then says, "Nesa's bank</p> <p>25 statements are attached hereto as evidence of</p>

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<p style="text-align: right;">Page 109</p> <p>1 Rocco Guidici Pietro</p> <p>2 the source of funding. In addition, the firm</p> <p>3 intends to develop investment banking as a</p> <p>4 major business line and will devote</p> <p>5 substantial resources toward that end." Do</p> <p>6 you see that statement?</p> <p>7 A. Yes.</p> <p>8 Q. And then it says, "In that regard,</p> <p>9 the firm is requesting that it be permitted</p> <p>10 by its restrictive agreement to act as</p> <p>11 managing underwriter and selling group member</p> <p>12 in firm commitment underwritings." Do you</p> <p>13 see that?</p> <p>14 A. Yes.</p> <p>15 Q. All right. Now, it refers to the</p> <p>16 "restrictive agreement." Do you see that?</p> <p>17 A. Yes.</p> <p>18 Q. And previously I asked you some</p> <p>19 questions about the agreement. Do you</p> <p>20 understand that the restrictive agreement</p> <p>21 being referenced there is the restrictive</p> <p>22 agreement between Alexander Capital and FINRA</p> <p>23 that was in existence at that time, in 2015?</p> <p>24 A. I don't know if that's what -- I</p> <p>25 don't know if that's what they mean there.</p>	<p style="text-align: right;">Page 111</p> <p>1 Rocco Guidici Pietro</p> <p>2 document, as you could see.</p> <p>3 Q. That's right, but I am talking</p> <p>4 specifically in 2015?</p> <p>5 A. There's always restrictions.</p> <p>6 Q. Okay. And you can see here that</p> <p>7 it's requesting that it be permitted by its</p> <p>8 restrictive agreement to act as managing</p> <p>9 underwriter in selling group member in firm</p> <p>10 commitment underwritings. Do you see that?</p> <p>11 A. I see that.</p> <p>12 Q. Okay. Is that -- is it your</p> <p>13 understanding that the agreement with FINRA</p> <p>14 -- and I think you testified previously about</p> <p>15 this, but just to make sure, that the</p> <p>16 restrictive agreement -- that the agreement</p> <p>17 with FINRA did not allow Alexander Capital,</p> <p>18 at that time, to be the managing underwriter</p> <p>19 and selling group member in firm commitment</p> <p>20 underwritings, without obtaining the approval</p> <p>21 of FINRA? Is that true?</p> <p>22 MR. WARD: Objection.</p> <p>23 Vague.</p> <p>24 MR. SCHLICHTMANN: All</p> <p>25 right, I don't want to have it be</p>
<p style="text-align: right;">Page 110</p> <p>1 Rocco Guidici Pietro</p> <p>2 Q. Well, it says the firm is</p> <p>3 requesting it will be permitted by its</p> <p>4 restrictive agreement to act as managing</p> <p>5 underwriter in selling group member and firm</p> <p>6 commitment underwriting. Do you see that?</p> <p>7 A. Right.</p> <p>8 Q. Okay. And did you understand that</p> <p>9 Alexander Capital had a restrictive agreement</p> <p>10 with FINRA, in 2015?</p> <p>11 A. I would call it a "membership</p> <p>12 agreement." The attorneys put that together,</p> <p>13 so I don't know what they're pertaining to.</p> <p>14 Q. All right. But you understood at</p> <p>15 the time that Alexander Capital had a</p> <p>16 membership agreement with FINRA?</p> <p>17 A. Yes.</p> <p>18 Q. And you understood at the time that</p> <p>19 there were certain things that the agreement</p> <p>20 allowed Alexander Capital to do under the</p> <p>21 rules and regulations of FINRA, and things</p> <p>22 that it was not allowed to do; is that</p> <p>23 correct, at that time?</p> <p>24 A. Well, it's -- at that time -- it</p> <p>25 depends what time frame. It's a changing</p>	<p style="text-align: right;">Page 112</p> <p>1 Rocco Guidici Pietro</p> <p>2 vague.</p> <p>3 Q. Is it true, as of that time, it was</p> <p>4 your understanding that under the agreement</p> <p>5 with FINRA, Alexander Capital could not act</p> <p>6 as the underwriter in a firm commitment</p> <p>7 underwriting, at that time?</p> <p>8 A. In 2015, yes.</p> <p>9 Q. Okay. It then says "The firm</p> <p>10 anticipates that it will participate in two</p> <p>11 or more public offerings per year in the</p> <p>12 three and a half to \$10 million range. In</p> <p>13 addition, the firm intends to proprietary</p> <p>14 trade in these underwritings, so it can</p> <p>15 exercise the greenshoe option."</p> <p>16 Do you see that?</p> <p>17 A. Yes.</p> <p>18 Q. Do you know what a "greenshoe</p> <p>19 option" is?</p> <p>20 A. Yeah, I am familiar with it.</p> <p>21 Q. What is your -- what was your</p> <p>22 understanding, then, of a greenshoe option?</p> <p>23 A. My understanding now is that --</p> <p>24 that it's an additional option to purchase</p> <p>25 more shares.</p>

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<p style="text-align: right;">Page 113</p> <p>1 Rocco Guidici Pietro</p> <p>2 Q. Now, it connects the greenshoe</p> <p>3 option with proprietary trade. Do you see</p> <p>4 that?</p> <p>5 A. Yes.</p> <p>6 Q. What's your understanding of the</p> <p>7 connection between exercising the greenshoe</p> <p>8 option, and the proprietary trade?</p> <p>9 A. Don't know. I'm not a trader. I</p> <p>10 don't know.</p> <p>11 Q. What's your understanding of</p> <p>12 proprietary trade?</p> <p>13 A. Firm trading its own funds, which</p> <p>14 we don't do.</p> <p>15 Q. Okay. And you didn't do that in</p> <p>16 2015?</p> <p>17 A. No.</p> <p>18 Q. It's talking about a "future</p> <p>19 intention" to do that, to proprietarily trade</p> <p>20 in the underwriting, so it can exercise a</p> <p>21 greenshoe option; is that correct?</p> <p>22 A. That's a future perspective on what</p> <p>23 we might do.</p> <p>24 Q. Okay. Was it your understanding</p> <p>25 that Alexander Capital could exercise a</p>	<p style="text-align: right;">Page 115</p> <p>1 Rocco Guidici Pietro</p> <p>2 in 2015?</p> <p>3 A. No, it says, "may." That's not the</p> <p>4 only way to do it.</p> <p>5 Q. Okay. Are there other ways to do</p> <p>6 it?</p> <p>7 A. Yeah, I could write a check.</p> <p>8 Q. Okay. It says that "The firm</p> <p>9 understands that it can employ temporary</p> <p>10 subordinated loans only three times per year</p> <p>11 for purposes of satisfying net capital</p> <p>12 requirements for firm commitment</p> <p>13 underwritings." Do you see that?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. And was that your</p> <p>16 understanding, in 2015, that there was only a</p> <p>17 certain amount of subordinated loans that</p> <p>18 Alexander Capital could take out, if it was</p> <p>19 given authorization for firm commitment</p> <p>20 underwritings, in order to come up with the</p> <p>21 money necessary to fulfill the firm</p> <p>22 commitment undertaking?</p> <p>23 A. No.</p> <p>24 Q. "Additionally, the current equity</p> <p>25 holders of the firm, as well as Messrs.</p>
<p style="text-align: right;">Page 114</p> <p>1 Rocco Guidici Pietro</p> <p>2 greenshoe option in underwritings it was</p> <p>3 authorized to undertake in 2015 or that it</p> <p>4 could not?</p> <p>5 A. Don't know.</p> <p>6 Q. It then says later, it says, "To</p> <p>7 satisfy net capital requirements, and to fund</p> <p>8 firm commitment underwritings, the firm may</p> <p>9 employ temporary subordinated loans and/or</p> <p>10 subordinated loans, and has identified</p> <p>11 potential lenders for this purpose." Do you</p> <p>12 see that?</p> <p>13 A. Yes.</p> <p>14 Q. Was it your understanding, in 2015,</p> <p>15 that in order for Alexander Capital to</p> <p>16 satisfy the net capital requirements for firm</p> <p>17 commitment underwritings, that the firm may</p> <p>18 have to employ temporary subordinated loans</p> <p>19 and/or subordinated loans, for that purpose?</p> <p>20 A. No.</p> <p>21 Q. Did you think the firm had -- did</p> <p>22 you understand, in 2015, that the -- that the</p> <p>23 -- in order to undertake a firm commitment</p> <p>24 offering, that the firm would have to take</p> <p>25 out subordinated loans of any kind to do that</p>	<p style="text-align: right;">Page 116</p> <p>1 Rocco Guidici Pietro</p> <p>2 Guidici Pietro, Amato, O'Brian, Carlin,</p> <p>3 Gazdak, and Feinman, have the capital and</p> <p>4 have agreed to make additional capital</p> <p>5 contributions in the future if necessary."</p> <p>6 Do you see that?</p> <p>7 A. Yes.</p> <p>8 Q. Was it your understanding that</p> <p>9 yourself, Mr. Amato, Mr. O'Brian, Mr. Carlin,</p> <p>10 Mr. Gazdak, and Mr. Feinman had any kind of</p> <p>11 an agreement regarding making additional</p> <p>12 capital contributions in the firm?</p> <p>13 A. No.</p> <p>14 MR. WARD: Objection.</p> <p>15 Vague.</p> <p>16 Q. In 2015, to your knowledge, did you</p> <p>17 have any communications of any kind with Mr.</p> <p>18 Amato, Mr. O'Brian, Mr. Carlin, Mr. Gazdak,</p> <p>19 and Mr. Feinman, about whether or not those</p> <p>20 parties would have -- could come to an</p> <p>21 agreement regarding making additional capital</p> <p>22 contributions in the firm?</p> <p>23 A. Not that I recall.</p> <p>24 Q. To your knowledge, in 2015, had any</p> <p>25 of those people named, yourself, Mr. Amato,</p>

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<p style="text-align: right;">Page 117</p> <p>1 Rocco Guidici Pietro</p> <p>2 Mr. O'Brian, Mr. Carlin, Mr. Gazdak, and Mr.</p> <p>3 Feinman, had they made any capital</p> <p>4 contributions to Alexander Capital, as of</p> <p>5 June 2015?</p> <p>6 A. Not that I know of.</p> <p>7 Q. The -- it also says, "Additionally,</p> <p>8 the current equity holders of the firm," all</p> <p>9 right. Were you aware that there were other</p> <p>10 equity holders of the firm, other than</p> <p>11 yourself and Mr. Amato?</p> <p>12 A. There wasn't.</p> <p>13 Q. All right. Here -- later it --</p> <p>14 right below, actually, it lists -- it says,</p> <p>15 "Below is" -- so this is in answer to the</p> <p>16 question, "For any persons or entities</p> <p>17 including other broker-dealers and investment</p> <p>18 advisory firms that will be become associated</p> <p>19 or affiliated with the applicant through</p> <p>20 ownership, employment or otherwise, as a</p> <p>21 result of the proposed transaction, please</p> <p>22 provide the name of the person or entity,</p> <p>23 describe the relationship such person or</p> <p>24 entity will have with the applicant, and for</p> <p>25 any entity, describe the business conducted</p>	<p style="text-align: right;">Page 119</p> <p>1 Rocco Guidici Pietro</p> <p>2 A. Yes.</p> <p>3 Q. All right. And was it your</p> <p>4 understanding that Mr. Sullivan would need</p> <p>5 assistance from another person skilled in</p> <p>6 financial operations, with respect -- if the</p> <p>7 firm was to conduct firm commitment</p> <p>8 underwritings at that time?</p> <p>9 A. No, I do not.</p> <p>10 Q. Did you know that he was qualified</p> <p>11 and did not require any assistance -- well,</p> <p>12 let me ask: Did you have an understanding as</p> <p>13 to whether Mr. Sullivan did not need</p> <p>14 assistance in order for the firm to conduct</p> <p>15 firm commitment underwritings, if it was so</p> <p>16 authorized, in 2015?</p> <p>17 A. Can you repeat that question?</p> <p>18 Q. Yes. Did you have an understanding</p> <p>19 as to whether Mr. Sullivan could conduct, or</p> <p>20 do his responsibilities as a financial -- as</p> <p>21 -- as -- in financial operations, with</p> <p>22 respect to firm commitment underwritings, if</p> <p>23 the firm had been authorized, in 2015, to</p> <p>24 conduct such offerings?</p> <p>25 A. That wasn't my judgment call. That</p>
<p style="text-align: right;">Page 118</p> <p>1 Rocco Guidici Pietro</p> <p>2 by such entity, and identify whether the</p> <p>3 applicant will be conducting business with or</p> <p>4 on behalf of the person or entity." It</p> <p>5 states, "The firm intends to hire a part-time</p> <p>6 FINOP, Thomas Hopkins, to assist its current</p> <p>7 full-time in-house FINOP, Thomas Sullivan, as</p> <p>8 needed, and with respect to the firm</p> <p>9 commitment underwritings."</p> <p>10 Was it your understanding that to</p> <p>11 do a firm commitment underwritings, it would</p> <p>12 have been necessary, at that time, to hire</p> <p>13 another FINOP person on a part-time basis to</p> <p>14 work with Mr. Hopkins? Was that your</p> <p>15 understanding at that time?</p> <p>16 A. No.</p> <p>17 Q. Did you understand that Mr. Hopkins</p> <p>18 would need some assistance in financial</p> <p>19 operations, in order to -- for the firm to</p> <p>20 conduct firm commitment underwritings at that</p> <p>21 time?</p> <p>22 A. I don't even know who Mr. Hopkins</p> <p>23 is.</p> <p>24 Q. You don't know who Mr. Hopkins is.</p> <p>25 All right. Do you know who Mr. Sullivan was?</p>	<p style="text-align: right;">Page 120</p> <p>1 Rocco Guidici Pietro</p> <p>2 was left up to legal.</p> <p>3 Q. That would be a legal decision, in</p> <p>4 your mind?</p> <p>5 A. The lawyers would know what was</p> <p>6 needed for the application.</p> <p>7 Q. Okay. "Specify changes in direct</p> <p>8 ownership." Do you see that in the</p> <p>9 application?</p> <p>10 A. Yes.</p> <p>11 Q. All right. It then has a list of</p> <p>12 names, identity of the entity, the roles that</p> <p>13 they -- role acquired, the ownership</p> <p>14 percentage, and whether they are a control</p> <p>15 person. Do you see that banner?</p> <p>16 A. I can't see the last one.</p> <p>17 Q. I'm sorry. Okay.</p> <p>18 A. The last column.</p> <p>19 Q. All right. We want to make sure</p> <p>20 you --</p> <p>21 A. It's a little small.</p> <p>22 Q. How is that?</p> <p>23 A. Yes, I can see it now.</p> <p>24 Q. Okay. Now, the first name is your</p> <p>25 name.</p>

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<p style="text-align: right;">Page 121</p> <p>1 Rocco Guidici Pietro</p> <p>2 Do you see that?</p> <p>3 A. Yes.</p> <p>4 Q. And that you are an individual; do</p> <p>5 you see that?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. And the role it says is COO,</p> <p>8 and we've already -- you have already</p> <p>9 testified that stands for chief operations --</p> <p>10 chief operating officer, correct?</p> <p>11 A. Yes.</p> <p>12 Q. And then it says, "ROP." Do you</p> <p>13 have an understanding of what that stands</p> <p>14 for?</p> <p>15 A. Yes, it's a ROP.</p> <p>16 Q. What's that?</p> <p>17 A. Options principal.</p> <p>18 Q. I'm sorry?</p> <p>19 A. Options principal.</p> <p>20 Q. What's an "options principal"?</p> <p>21 A. A supervisor for option trading.</p> <p>22 Q. And what's the "R"? Is that</p> <p>23 "registered options principal"?</p> <p>24 A. Yes, registered options principal.</p> <p>25 Q. Yeah, registered, got it. And</p>	<p style="text-align: right;">Page 123</p> <p>1 Rocco Guidici Pietro</p> <p>2 Capital, LP, in 2015?</p> <p>3 A. Yeah, zero. That's zero to five.</p> <p>4 Q. Okay. You understood you had zero?</p> <p>5 A. Yes.</p> <p>6 Q. Did you understand you were a</p> <p>7 control person?</p> <p>8 A. Yes.</p> <p>9 Q. And then as to Mr. Feinman, it</p> <p>10 states that he took over his role in June of</p> <p>11 2014. Does that sound right to you?</p> <p>12 A. Again, I would have to look at the</p> <p>13 filings. That's what's there.</p> <p>14 Q. Any reason to doubt it?</p> <p>15 A. I -- I don't remember when he</p> <p>16 started.</p> <p>17 Q. Okay. It has Mr. Sullivan, Thomas</p> <p>18 Sullivan, as the chief financial officer,</p> <p>19 FINOP. Do you see that?</p> <p>20 A. Yes.</p> <p>21 Q. Starting on May 1st, 2014. Any</p> <p>22 reason to doubt that's when he started?</p> <p>23 A. I can't confirm the exact date, but</p> <p>24 around that time frame.</p> <p>25 Q. And then it says, Nesa Management,</p>
<p style="text-align: right;">Page 122</p> <p>1 Rocco Guidici Pietro</p> <p>2 "SROP"?</p> <p>3 A. Senior registered options</p> <p>4 principal.</p> <p>5 Q. That has to do with the selling of</p> <p>6 options and securities?</p> <p>7 A. That's my licensing that I am able</p> <p>8 to do that.</p> <p>9 Q. Okay, all right. It says the date</p> <p>10 your role was acquired was April 1st, 2012.</p> <p>11 Does that help refresh your recollection as</p> <p>12 to when you acquired the role of chief</p> <p>13 operating officer at Alexander Capital, LP?</p> <p>14 A. I am not sure. I would have to</p> <p>15 look at all the filings.</p> <p>16 Q. Okay. Is there any reason to doubt</p> <p>17 that the application is correct as to when</p> <p>18 you acquired your role?</p> <p>19 A. Again, I would have to look at the</p> <p>20 filings. That could be a date for the ROP,</p> <p>21 could be before COO.</p> <p>22 Q. Okay. How about ownership</p> <p>23 percentage, it says, less than 5 percent.</p> <p>24 Did you understand that you had an ownership</p> <p>25 percentage yourself individually in Alexander</p>	<p style="text-align: right;">Page 124</p> <p>1 Rocco Guidici Pietro</p> <p>2 LLC, which you testified previously. It's</p> <p>3 listed as "partner," all right, and this is</p> <p>4 June of 2015.</p> <p>5 Is it consistent with your</p> <p>6 understanding that Nesa Management, LLC, was</p> <p>7 a partner in Alexander Capital, LP, in 2015?</p> <p>8 A. '15 or '13?</p> <p>9 Q. 2015.</p> <p>10 A. '15, yes.</p> <p>11 Q. Now it says, "date role acquired,"</p> <p>12 it says, December 1st, 2013. Is that</p> <p>13 consistent with your understanding that Nesa</p> <p>14 Management became a partner in Alexander</p> <p>15 Capital, as of December 1st, 2013?</p> <p>16 A. Again, I would have to confirm the</p> <p>17 date, but it was about that time.</p> <p>18 Q. And that it's listed as, yes, a</p> <p>19 control person, that Nesa Management was</p> <p>20 considered a control person. Is that -- at</p> <p>21 that time.</p> <p>22 Is that considered -- is that</p> <p>23 consistent with your understanding at that</p> <p>24 time?</p> <p>25 A. Yes.</p>

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<p style="text-align: right;">Page 125</p> <p>1 Rocco Guidici Pietro</p> <p>2 Q. And then it has Timothy Stack,</p> <p>3 chief compliance officer, role acquired</p> <p>4 September 1st, 2013. Is that your</p> <p>5 understanding of when Mr. Stack acquired that</p> <p>6 position?</p> <p>7 A. Again, I would have to look and see</p> <p>8 what -- these have been known to not be</p> <p>9 correct.</p> <p>10 Q. All right, but this is an</p> <p>11 application put in by the law firm,</p> <p>12 Sichenzia, representing Alexander Capital.</p> <p>13 Any reason to believe that's incorrect or</p> <p>14 not?</p> <p>15 A. I can't confirm if it's correct or</p> <p>16 not, without looking.</p> <p>17 Q. Okay. It has Exitus, LLC. Do you</p> <p>18 see that?</p> <p>19 A. Yes.</p> <p>20 Q. They're listed as a "partner."</p> <p>21 Do you see that?</p> <p>22 A. Yes.</p> <p>23 Q. Is it consistent with your</p> <p>24 understanding that as of that time, Exitus,</p> <p>25 E-X-I-T-U-S, LLC, was a partner in Alexander</p>	<p style="text-align: right;">Page 127</p> <p>1 Rocco Guidici Pietro</p> <p>2 A. Yes.</p> <p>3 Q. Was it your understanding that Nesa</p> <p>4 Management -- or do you remember what Nesa</p> <p>5 Management had, as of 2015, regarding its</p> <p>6 percentage interest?</p> <p>7 A. Yes.</p> <p>8 Q. How much?</p> <p>9 A. 24.9.</p> <p>10 Q. Okay. And, in fact, in the</p> <p>11 statement up here it says, Nesa Management</p> <p>12 wants to purchase 75.1 percent from Exitus,</p> <p>13 okay, indicating that, therefore, Exitus,</p> <p>14 according to the statement, had 75.1 percent</p> <p>15 -- had 75.1 interest in Alexander Capital; is</p> <p>16 that correct?</p> <p>17 A. Yes.</p> <p>18 Q. And that if it had purchased -- if</p> <p>19 it was approved to purchase the 71 -- 75.1</p> <p>20 percent interest in -- that Exitus had, that</p> <p>21 that would result in Nesa owning 100 percent</p> <p>22 of Alexander Capital, LP; is that correct?</p> <p>23 A. Yes.</p> <p>24 Q. And was it your understanding, in</p> <p>25 2015, that there really were only two -- not</p>
<p style="text-align: right;">Page 126</p> <p>1 Rocco Guidici Pietro</p> <p>2 Capital, LP?</p> <p>3 A. Yes.</p> <p>4 Q. And it says that the role was</p> <p>5 acquired on May 1st, 2012. Is that</p> <p>6 consistent with your understanding?</p> <p>7 A. I would have to check.</p> <p>8 Q. Is it your understanding that</p> <p>9 Exitus had a partnership interest in</p> <p>10 Alexander Capital, LP, before Nesa Management</p> <p>11 acquired a partnership interest?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. And it says, "ownership</p> <p>14 interest, 75 percent or more." Do you see</p> <p>15 that?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. And is it your understanding</p> <p>18 -- is that consistent with your understanding</p> <p>19 that Exitus had a -- as of 2015, had a 75</p> <p>20 percent or more interest in Alexander</p> <p>21 Capital, LP?</p> <p>22 A. Yes.</p> <p>23 Q. And it says about Nesa Management,</p> <p>24 it says, "10 percent but less than 25</p> <p>25 percent." Do you see that?</p>	<p style="text-align: right;">Page 128</p> <p>1 Rocco Guidici Pietro</p> <p>2 "really" -- there were only two owners of</p> <p>3 Alexander Capital -- Exitus with 75.1 percent</p> <p>4 ownership and Nesa with 25 -- 24.9 percent</p> <p>5 interest?</p> <p>6 Is that consistent with your</p> <p>7 understanding at that time?</p> <p>8 A. Yes.</p> <p>9 MR. WARD: Jeff, I have a</p> <p>10 request from our videographer for</p> <p>11 Rocco, if you can move closer to</p> <p>12 the microphone or move the</p> <p>13 microphone closer to where you are.</p> <p>14 Thanks.</p> <p>15 THE WITNESS: Is that</p> <p>16 better?</p> <p>17 MR. WARD: Sounds good to</p> <p>18 me.</p> <p>19 MR. SCHLICHTMANN: All</p> <p>20 right, great, thank you.</p> <p>21 Q. Okay. I am going to go to -- yeah,</p> <p>22 hold one second, and I will bring up another</p> <p>23 exhibit here. Bear with me for one second.</p> <p>24 All right.</p> <p>25 Mr. Guidici Pietro, did you</p>

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<p style="text-align: right;">Page 129</p> <p>1 Rocco Guidici Pietro</p> <p>2 understand in -- did you have an</p> <p>3 understanding of what a limited partnership</p> <p>4 was, as of from 2013 to 2015?</p> <p>5 Did you have an understanding of</p> <p>6 that kind of a corporate entity?</p> <p>7 A. LLC.</p> <p>8 Q. No, a limited partnership.</p> <p>9 A. Limited partnership, not too</p> <p>10 familiar with that.</p> <p>11 Q. Did you have any understanding what</p> <p>12 a "limited partnership" was?</p> <p>13 A. Not -- not that much of an</p> <p>14 understanding.</p> <p>15 Q. Did you have an understanding of</p> <p>16 what a "business partnership" was?</p> <p>17 A. Yes.</p> <p>18 Q. What was your understanding?</p> <p>19 A. Well, there's more than one partner</p> <p>20 in the partnership.</p> <p>21 Q. That there could be limited</p> <p>22 partners in a partnership?</p> <p>23 A. Yes.</p> <p>24 Q. What was your understanding,</p> <p>25 between 2013 and 2015, as to the difference</p>	<p style="text-align: right;">Page 131</p> <p>1 Rocco Guidici Pietro</p> <p>2 secretary of state's office, in order to be</p> <p>3 declared a Delaware limited partnership?</p> <p>4 A. No.</p> <p>5 Q. Were you aware of that between 2013</p> <p>6 and 2015?</p> <p>7 A. No.</p> <p>8 Q. Okay. In 20- -- between 2013 and</p> <p>9 2015, did you have an understanding of what a</p> <p>10 "general partner" was in a partnership?</p> <p>11 A. No.</p> <p>12 Q. Do you have one now?</p> <p>13 A. General.</p> <p>14 Q. Could you tell us as best you can,</p> <p>15 what's your understanding now?</p> <p>16 A. In general partners, a general</p> <p>17 partner. Limited partner is a limited</p> <p>18 partner.</p> <p>19 Q. What accounts for the fact that</p> <p>20 they have two different names, one prefaced</p> <p>21 with "general" and the other with "limited"?</p> <p>22 Was there a difference in their</p> <p>23 roles? Was that your understanding, or they</p> <p>24 had the same roles, and they were</p> <p>25 interchangeable?</p>
<p style="text-align: right;">Page 130</p> <p>1 Rocco Guidici Pietro</p> <p>2 between a "limited partner" and a "partner"?</p> <p>3 A. Depends what you are referring</p> <p>4 to --</p> <p>5 Q. Well --</p> <p>6 A. -- in the question.</p> <p>7 Q. Did you have any understanding that</p> <p>8 the -- there was a difference in roles</p> <p>9 between a limited partner and a partner in a</p> <p>10 limited partnership?</p> <p>11 A. No.</p> <p>12 Q. Did you understand whether there</p> <p>13 was any liability exposure that was different</p> <p>14 for a partner, as opposed to a limited</p> <p>15 partner?</p> <p>16 A. No.</p> <p>17 Q. Do you have one now?</p> <p>18 A. No.</p> <p>19 Q. Did you have any understanding</p> <p>20 between 2013 and 2015, that it was necessary</p> <p>21 that if a partnership wished to have the</p> <p>22 protections of a limited partnership, that it</p> <p>23 had to file in -- if it wanted to be a</p> <p>24 limited partnership under the laws of</p> <p>25 Delaware, that it had to file with the</p>	<p style="text-align: right;">Page 132</p> <p>1 Rocco Guidici Pietro</p> <p>2 A. I am not an expert in corporate</p> <p>3 structure, but my experience would be a</p> <p>4 general partner has more rights than a</p> <p>5 limited partner.</p> <p>6 Q. What kind of rights?</p> <p>7 A. Not sure. Just by the name.</p> <p>8 Q. All right. Was it your</p> <p>9 understanding that a limited partner role was</p> <p>10 to -- was to invest money, but not to take</p> <p>11 part in any management of the partnership?</p> <p>12 Was that your understanding or not,</p> <p>13 at that time?</p> <p>14 A. No, no.</p> <p>15 Q. It was not your understanding?</p> <p>16 A. No.</p> <p>17 Q. Was it your understanding that --</p> <p>18 at that time, that a general partner was</p> <p>19 someone who had management responsibilities</p> <p>20 in the partnership or you had no such</p> <p>21 understanding, at that time?</p> <p>22 A. No, no understanding at that time.</p> <p>23 Q. Okay. Are you aware -- you are the</p> <p>24 coowner with Mr. Amato of Nesa Management; is</p> <p>25 that correct?</p>

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<p style="text-align: right;">Page 133</p> <p>1 Rocco Guidici Pietro</p> <p>2 A. Yes.</p> <p>3 Q. And you have been coowner with Mr.</p> <p>4 Amato since Nesa Management was formed as an</p> <p>5 LLC; is that correct?</p> <p>6 A. Yes.</p> <p>7 Q. And that has been the case from</p> <p>8 when it was first formed, until the present;</p> <p>9 is that the case?</p> <p>10 A. Yes.</p> <p>11 Q. It's just the two of you who own</p> <p>12 Nesa?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. I am going to show you -- I</p> <p>15 am going to show you a document, and I -- and</p> <p>16 this document is Plaintiff's Exhibit 129, and</p> <p>17 it's a letter from -- with the letterhead of</p> <p>18 Sichenzia, Ross, Freidman, and Ference. Do</p> <p>19 you see that over to the left?</p> <p>20 A. Yes.</p> <p>21 Q. And it's dated October 27, 2015.</p> <p>22 Do you see that?</p> <p>23 A. Yes.</p> <p>24 Q. And it's -- it's to a Mr. Francois</p> <p>25 at FINRA, who's the principal investigator --</p>	<p style="text-align: right;">Page 135</p> <p>1 Rocco Guidici Pietro</p> <p>2 that Mr. -- that the firm of Sichenzia, Ross,</p> <p>3 Freidman and Ference was representing</p> <p>4 Alexander Capital regarding its application a</p> <p>5 change in membership application?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. And did you know that the</p> <p>8 attorney for Sichenzia Ross who's taking on</p> <p>9 the responsibilities on behalf of the firm</p> <p>10 representing Alexander Capital was Mr. Ross</p> <p>11 Carmel?</p> <p>12 A. Not sure. There was multiple</p> <p>13 attorneys.</p> <p>14 Q. Are you familiar with Mr. Carmel?</p> <p>15 A. Yes.</p> <p>16 Q. And someone you recognize as a</p> <p>17 member of the firm of Sichenzia?</p> <p>18 A. Yes.</p> <p>19 Q. Someone who has taken up</p> <p>20 representation of Alexander Capital as a</p> <p>21 member of the firm of Sichenzia Ross?</p> <p>22 A. They've used multiple attorneys at</p> <p>23 that law firm, but he is one of them, yes.</p> <p>24 Q. Okay. Now, you see it says number</p> <p>25 one, "Provide documentation of Nesa" -- the</p>
<p style="text-align: right;">Page 134</p> <p>1 Rocco Guidici Pietro</p> <p>2 examiner, excuse me. Do you see that?</p> <p>3 A. Yes.</p> <p>4 Q. And it says, "Re, continuing</p> <p>5 membership application, firm, Alexander</p> <p>6 Capital, LP," and it gives the application</p> <p>7 number. Do you see that?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. Now, it states in the first</p> <p>10 paragraph, "Dear Mr. Francois, as you know,</p> <p>11 this firm represents Alexander Capital, LP,</p> <p>12 Alexander, or the firm. We are in receipt of</p> <p>13 the staff's request of Alexander pursuant to</p> <p>14 Rule 1017, dated October 19, 2015, the</p> <p>15 request. We trust the foregoing responses</p> <p>16 will satisfy in full the request, such that</p> <p>17 Alexander's application to amend its</p> <p>18 membership agreement to increase the number</p> <p>19 of associated persons, approval to engage in</p> <p>20 firm commitment underwriting activity, and</p> <p>21 approval to engage in proprietary trading,</p> <p>22 trading, and change of ownership is approved</p> <p>23 by FINRA." Do you see that?</p> <p>24 A. Yes.</p> <p>25 Q. And is -- were you aware, in 2015,</p>	<p style="text-align: right;">Page 136</p> <p>1 Rocco Guidici Pietro</p> <p>2 question that FINRA asked was "provide</p> <p>3 documentation of Nesa Management, LLC's,</p> <p>4 Nesa, assumption of the role of general</p> <p>5 partner of the firm, draft, or executed." Do</p> <p>6 you see that?</p> <p>7 A. Yes.</p> <p>8 Q. And the response is, "responsive</p> <p>9 documents are enclosed herewith as Exhibit</p> <p>10 A."</p> <p>11 Do you see that?</p> <p>12 A. Yes.</p> <p>13 Q. All right. Now, when we go to</p> <p>14 Exhibit A in this document, here is Exhibit A</p> <p>15 of the same exhibit, it's an assignment and</p> <p>16 assumption agreement. Do you see that?</p> <p>17 A. Yes.</p> <p>18 Q. It says, "This assignment and</p> <p>19 assumption agreement, agreement, dated as of</p> <p>20 blank" -- it's undated -- "is made by and</p> <p>21 between Alexander Capital Holdings, Inc., a</p> <p>22 Delaware corporation, referred to herein as</p> <p>23 'the company,'" right? You see that?</p> <p>24 A. Yes.</p> <p>25 Q. "And Nesa Management, LLC, a New</p>

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<p style="text-align: right;">Page 137</p> <p>1 Rocco Guidici Pietro</p> <p>2 York limited liability company, to be</p> <p>3 referred to as 'new GP' in this agreement."</p> <p>4 Do you see that?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. Now, in looking at this</p> <p>7 document, is this document familiar to you at</p> <p>8 all --</p> <p>9 A. Absolutely.</p> <p>10 Q. -- as an assignment and assumption</p> <p>11 agreement?</p> <p>12 A. No.</p> <p>13 Q. Do you remember at any time that</p> <p>14 there was an assignment and assumption</p> <p>15 agreement proposed between Alexander Capital</p> <p>16 Holdings, Inc., and Nesa Management, LLC, at</p> <p>17 any time, in the past?</p> <p>18 A. No, I don't.</p> <p>19 Q. To your knowledge, has Alexander --</p> <p>20 to your knowledge, has Nesa Management and</p> <p>21 Alexander Capital Holdings, Inc., ever</p> <p>22 entered into an assignment and assumption</p> <p>23 agreement in the past?</p> <p>24 A. Not to my knowledge.</p> <p>25 Q. To your knowledge, has Nesa</p>	<p style="text-align: right;">Page 139</p> <p>1 Rocco Guidici Pietro</p> <p>2 assume the role of general partner of the</p> <p>3 partnership, dated as of the date hereof."</p> <p>4 Now, this is undated. Okay.</p> <p>5 Was it your understanding, in 2015,</p> <p>6 that Alexander Capital Holdings, Inc.,</p> <p>7 desired to transfer its GP interest to Nesa,</p> <p>8 and that Nesa desired to assume the role of</p> <p>9 general partnership, that that was their</p> <p>10 intention in 2015?</p> <p>11 A. No.</p> <p>12 Q. And in looking at this agreement</p> <p>13 and knowing what you know now as you sit</p> <p>14 here, is that, in your mind, a true statement</p> <p>15 or not true?</p> <p>16 MR. WARD: Objection.</p> <p>17 Objection. Vague.</p> <p>18 Q. All right. So as of -- as you sit</p> <p>19 here today, based on what you know, was it --</p> <p>20 is it your understanding that in 2015,</p> <p>21 Alexander Capital Holdings, Inc., wished to</p> <p>22 transfer its GP interest to Nesa, and Nesa</p> <p>23 wished to assume it and become the general</p> <p>24 partner of Alexander Capital, LP, or that's</p> <p>25 not consistent with your understanding, as</p>
<p style="text-align: right;">Page 138</p> <p>1 Rocco Guidici Pietro</p> <p>2 Management ever entered into any kind of</p> <p>3 agreement with Alexander Capital Holdings,</p> <p>4 Inc., in the past?</p> <p>5 A. Not that I'm aware of.</p> <p>6 Q. All right. It says, "witnesses" --</p> <p>7 "Witnesseth." It says, "whereas," several</p> <p>8 clauses here. "Whereas, the company holds,"</p> <p>9 referring to Alexander Capital, Holdings,</p> <p>10 Inc., "holds 100 percent of the general</p> <p>11 partnership interest, the GP interest, of</p> <p>12 Alexander Capital, LP, a Delaware limited</p> <p>13 partnership, and serves as the sole general</p> <p>14 partner thereof" -- let's just stop there.</p> <p>15 Was it your understanding, in 2015,</p> <p>16 that Alexander Capital Holdings, Inc., held</p> <p>17 100 percent of the general partnership</p> <p>18 interest of Alexander Capital, LP, and served</p> <p>19 as the sole general partner as of that date,</p> <p>20 2015?</p> <p>21 A. No, I believe that to be incorrect.</p> <p>22 Q. It then says, "whereas, Alexander</p> <p>23 Capital Holdings, Inc., desires to transfer</p> <p>24 the GP interest to Nesa, the new GP, and</p> <p>25 Nesa, new GP, deserves to" -- "desires to</p>	<p style="text-align: right;">Page 140</p> <p>1 Rocco Guidici Pietro</p> <p>2 you sit here today?</p> <p>3 A. That's not consistent.</p> <p>4 Q. Okay. It says, "whereas, the</p> <p>5 company proposed to transfer the general</p> <p>6 partnership interest to Nesa," and that,</p> <p>7 again, "whereas, Alexander Capital Holdings,</p> <p>8 Inc., proposed to transfer the GP interest to</p> <p>9 Nesa, and that Nesa be admitted immediately</p> <p>10 prior to such transfer as general partner of</p> <p>11 the partnership."</p> <p>12 Do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. Again, is that consistent with your</p> <p>15 understanding, in 2015, that that's -- that</p> <p>16 -- that Alexander Capital Holdings, Inc., was</p> <p>17 proposing a transfer of the GP interest to</p> <p>18 Nesa and that Nesa be admitted immediately</p> <p>19 prior to such a transfer as general partner</p> <p>20 of the partnership?</p> <p>21 A. No.</p> <p>22 Q. Is it your understanding now, based</p> <p>23 on what you know, that that was true as of</p> <p>24 that time?</p> <p>25 A. No, that's not true.</p>

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<p style="text-align: right;">Page 141</p> <p>1 Rocco Guidici Pietro</p> <p>2 Q. In reading this proposed agreement</p> <p>3 that was submitted to FINRA in 2015, as part</p> <p>4 of Alexander Capital, LP's application for</p> <p>5 approval in the change of ownership, and</p> <p>6 approval to get the authority to do firm</p> <p>7 commitment underwritings, does that help</p> <p>8 refresh your recollection at all that, in</p> <p>9 fact, the statements in the assignment and</p> <p>10 assumption agreement were true, that we'd</p> <p>11 just gone over?</p> <p>12 A. No, it does not.</p> <p>13 Q. And to be clear, as far as you</p> <p>14 know, up to today, that Nesa and Alexander</p> <p>15 Capital Holdings, Inc., never entered into an</p> <p>16 agreement of any kind?</p> <p>17 A. Exactly.</p> <p>18 Q. At any time, right, okay. Thank</p> <p>19 you.</p> <p>20 A. Any time.</p> <p>21 Q. Yeah. All right. Now, I</p> <p>22 previously asked you some questions about</p> <p>23 Alexander Capital Holdings, Inc., earlier</p> <p>24 today. Do you remember that?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 143</p> <p>1 Rocco Guidici Pietro</p> <p>2 Inc., and it talks about a certificate of</p> <p>3 incorporation in 1995, a certificate of</p> <p>4 revival in 2009 --</p> <p>5 MR. WARD: We are not seeing</p> <p>6 the document, Jan.</p> <p>7 MR. SCHLICHTMANN: You are</p> <p>8 not seeing the document? I am just</p> <p>9 reading certification -- are you</p> <p>10 not seeing anything on the screen?</p> <p>11 MR. WARD: Are you not</p> <p>12 trying to show the document,</p> <p>13 because we don't see anything?</p> <p>14 MR. SCHLICHTMANN: Oh, I am</p> <p>15 so sorry. Sorry about that. Thank</p> <p>16 you for telling me.</p> <p>17 Q. All right, I will go back again.</p> <p>18 This is Plaintiff's Exhibit 161. You can see</p> <p>19 that now, right?</p> <p>20 A. Yes.</p> <p>21 Q. Okay.</p> <p>22 MR. WARD: It's 161?</p> <p>23 MR. SCHLICHTMANN: Yes, 161,</p> <p>24 Plaintiff's Exhibit 161.</p> <p>25 MR. WARD: That was the last</p>
<p style="text-align: right;">Page 142</p> <p>1 Rocco Guidici Pietro</p> <p>2 Q. Okay. And, of course, I have asked</p> <p>3 you some more questions just now. Now, since</p> <p>4 the time I asked you those questions, since</p> <p>5 the time you had a chance to think about</p> <p>6 things, to the extent you had a chance to</p> <p>7 think about things, do you have -- do you</p> <p>8 have any memory at all of having any</p> <p>9 relationship with Alexander Capital Holdings,</p> <p>10 Inc., in any way or --</p> <p>11 A. No.</p> <p>12 Q. -- as you sit here today, you don't</p> <p>13 have any such memory of having any</p> <p>14 involvement with Alexander Capital Holdings,</p> <p>15 Inc.?</p> <p>16 A. No, I do not.</p> <p>17 Q. As you sit here today, remember</p> <p>18 having any such involvement with Alexander</p> <p>19 Capital Holdings, Inc.?</p> <p>20 A. Correct, none.</p> <p>21 Q. Okay, now, this is Exhibit 161,</p> <p>22 Plaintiff's Exhibit 161. It's with the</p> <p>23 Delaware secretary of state's office, and</p> <p>24 it's a certification regarding the documents</p> <p>25 on file regarding Alexander Capital Holdings,</p>	<p style="text-align: right;">Page 144</p> <p>1 Rocco Guidici Pietro</p> <p>2 one. Oh, okay.</p> <p>3 MR. SCHLICHTMANN: Am I</p> <p>4 right or has there been competing</p> <p>5 markings?</p> <p>6 MR. WARD: I had it as the</p> <p>7 same one but maybe I heard it wrong</p> <p>8 then.</p> <p>9 MR. SCHLICHTMANN: Sorry, we</p> <p>10 will figure it out, if there's a</p> <p>11 conflict with another exhibit. I</p> <p>12 don't think so. We will work it</p> <p>13 out if there is. For the purposes</p> <p>14 of right now, this is being</p> <p>15 referred to as Plaintiff's Exhibit</p> <p>16 161, and, hopefully, it's properly</p> <p>17 marked.</p> <p>18 MR. WARD: All right.</p> <p>19 Q. All right. And I was reading</p> <p>20 before, I apologize, I thought it was up on</p> <p>21 the screen, it wasn't, so I will just repeat</p> <p>22 myself. This document that's marked as</p> <p>23 Plaintiff's Exhibit 161 is from the secretary</p> <p>24 of state's office, and the certification that</p> <p>25 I was going through, I will just repeat it.</p>

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<p style="text-align: right;">Page 145</p> <p>1 Rocco Guidicipietro</p> <p>2 It says that it is a "certification regarding</p> <p>3 a 1995 filing of incorporation, a certificate</p> <p>4 of revival filed in 2009, a certificate of</p> <p>5 revival filed in 2012, and a certificate of</p> <p>6 dissolution filed the 12th day of February</p> <p>7 2015." Do you see that?</p> <p>8 A. Uh-huh.</p> <p>9 Q. Okay. Now, having to do with</p> <p>10 articles of incorporation that was filed on</p> <p>11 November 16, 1995, it's the Alexander Capital</p> <p>12 Holdings, Inc., articles of organization, and</p> <p>13 I am just flipping through it quickly. My --</p> <p>14 based on your answers before, I assume you</p> <p>15 have not seen this document before, you are</p> <p>16 not familiar with the articles of</p> <p>17 incorporation of Alexander Capital Holdings,</p> <p>18 Inc.; is that correct?</p> <p>19 A. That's correct.</p> <p>20 Q. Okay. And this is signed by a</p> <p>21 Felix Flores.</p> <p>22 Do you know Felix Flores?</p> <p>23 A. I do not.</p> <p>24 Q. Okay. Okay, then on April 6, 2009,</p> <p>25 there's a certificate for renewal and</p>	<p style="text-align: right;">Page 147</p> <p>1 Rocco Guidicipietro</p> <p>2 at all about --</p> <p>3 A. It doesn't. It does not.</p> <p>4 Q. Okay, I will go to April 11, 2012.</p> <p>5 And this is a certificate for renewal and</p> <p>6 revival of charter. The name of the</p> <p>7 corporation is Alexander Capital Holdings,</p> <p>8 Inc., and it states that the date of the</p> <p>9 filing of the corporation's original</p> <p>10 certificate was 1995. And it's signed --</p> <p>11 this revival is signed by Francine Lanaia.</p> <p>12 Do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. Did you understand that Mrs. --</p> <p>15 that Ms. Lanaia was an authorized officer at</p> <p>16 some time in the past of Alexander Capital</p> <p>17 Holdings, Inc.?</p> <p>18 A. I did not.</p> <p>19 Q. Does this help refresh your</p> <p>20 recollection at all about that?</p> <p>21 A. No.</p> <p>22 Q. Then it has February 12, 2015, is a</p> <p>23 filing. A certificate -- a short form</p> <p>24 certificate of dissolution. Do you see that?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 146</p> <p>1 Rocco Guidicipietro</p> <p>2 revival, and it says "the name of this</p> <p>3 corporation is Alexander Capital Holdings,</p> <p>4 Inc." It gives a street address -- no need to</p> <p>5 do that. The date of filing of the original</p> <p>6 certificate, 1995. And the certificate of</p> <p>7 revival is signed by a CEO, Mr. Boxer; is</p> <p>8 that name familiar to you, Mr. Boxer, Allan</p> <p>9 Boxer?</p> <p>10 A. Yes.</p> <p>11 Q. What's your -- how do you know Mr.</p> <p>12 Boxer?</p> <p>13 A. He was one of the old owners of</p> <p>14 Alexander Capital.</p> <p>15 Q. Did you understand Mr. Boxer had a</p> <p>16 relationship with Alexander Capital Holdings,</p> <p>17 Inc., at all?</p> <p>18 A. I did not.</p> <p>19 Q. That he was an authorized officer</p> <p>20 of it?</p> <p>21 A. I did not.</p> <p>22 Q. Or that he was the CEO of that?</p> <p>23 A. Did not.</p> <p>24 Q. Okay. And looking at that</p> <p>25 document, does that refresh your recollection</p>	<p style="text-align: right;">Page 148</p> <p>1 Rocco Guidicipietro</p> <p>2 Q. And it says, "the dissolution" --</p> <p>3 it says it "concerns the dissolution of</p> <p>4 Alexander Capital Holdings, Inc." Do you see</p> <p>5 that?</p> <p>6 A. Yes.</p> <p>7 Q. And that dissolution was authorized</p> <p>8 by the board of directors and stockholders,</p> <p>9 in accordance with Delaware law. Do you see</p> <p>10 that?</p> <p>11 A. Yes.</p> <p>12 Q. It says the date of dissolution was</p> <p>13 authorized on April 30, 2012. Do you see</p> <p>14 that?</p> <p>15 A. Yes.</p> <p>16 Q. All right. And it says, "The name</p> <p>17 and address of the directors and officers of</p> <p>18 the corporation are Joseph Figliolo, vice</p> <p>19 president," with 17 State Street, 5th Floor,</p> <p>20 New York, as his address. Do you see that?</p> <p>21 A. Yes.</p> <p>22 Q. And as you previously testified,</p> <p>23 that's the address of Alexander Capital, LP;</p> <p>24 is that correct?</p> <p>25 A. Yes.</p>

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<p style="text-align: right;">Page 149</p> <p>1 Rocco Guidici Pietro</p> <p>2 Q. And it was such an address in 2015?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. And do you -- did you have</p> <p>5 an understanding at any time that Mr.</p> <p>6 Figliolo was an officer or director or owned</p> <p>7 in any way Alexander Capital Holdings, Inc.?</p> <p>8 A. No.</p> <p>9 Q. It also mentions -- it has your</p> <p>10 name listed.</p> <p>11 Do you see that?</p> <p>12 A. Yes.</p> <p>13 Q. "Rocco Guidici Pietro, vice</p> <p>14 president, slash, director," with the</p> <p>15 Alexander Capital, LP, address. Now, in</p> <p>16 looking at this document and seeing your name</p> <p>17 on there, does that help refresh your</p> <p>18 recollection that you were a vice president</p> <p>19 and director of Alexander Capital Holdings,</p> <p>20 Inc., in the past?</p> <p>21 A. It does not, and I never was, no.</p> <p>22 I don't know why my name is on there.</p> <p>23 Q. All right. And, Mr. Guidici Pietro,</p> <p>24 I will be showing you more documents with</p> <p>25 your name regarding this, so if at any time</p>	<p style="text-align: right;">Page 151</p> <p>1 Rocco Guidici Pietro</p> <p>2 Q. Yes, this is Alexander -- yes,</p> <p>3 this has Alexander Capital Holdings, Inc.,</p> <p>4 right?</p> <p>5 A. Yeah, well, that -- that means that</p> <p>6 the company is being dissolved.</p> <p>7 Q. Yes, but the corporation that it's</p> <p>8 -- that's right, but the corporation -- this</p> <p>9 is referring to Alexander Capital Holdings,</p> <p>10 Inc., all right, and it's naming who the vice</p> <p>11 president and the vice president and director</p> <p>12 are of Alexander Capital Holdings, Inc.</p> <p>13 A. And that is -- that is my</p> <p>14 signature. I don't remember the document,</p> <p>15 and that -- I have no -- nothing -- nothing</p> <p>16 to do with Alexander Capital Holdings, as I</p> <p>17 remember.</p> <p>18 Q. Okay. Did you have -- do you -- do</p> <p>19 you have any memory that you had any</p> <p>20 involvement with the dissolution of Alexander</p> <p>21 Capital Holdings, Inc., at any time in the</p> <p>22 past?</p> <p>23 A. No, I don't.</p> <p>24 Q. Okay. All right. I will show you</p> <p>25 another certificate from this -- regarding</p>
<p style="text-align: right;">Page 150</p> <p>1 Rocco Guidici Pietro</p> <p>2 your memory is refreshed at all, please let</p> <p>3 me know, all right, because I will show you</p> <p>4 some more documents here. I'm sorry?</p> <p>5 A. I definitely will, but never seen</p> <p>6 this document. I don't know why my name is</p> <p>7 there.</p> <p>8 Q. Okay. It does have a signature on</p> <p>9 it. Now it's impossible to read it. Does</p> <p>10 that -- it says the -- Rocco -- your name is</p> <p>11 on there and it has the signature line. Do</p> <p>12 you recognize that as some form of your</p> <p>13 signature, or you don't believe that's your</p> <p>14 signature?</p> <p>15 A. I do. I don't recall that</p> <p>16 document.</p> <p>17 Q. Okay. Does this help -- I will be</p> <p>18 asking you several times, sir, and if it</p> <p>19 doesn't, it doesn't. Does this help refresh</p> <p>20 your recollection that you did sign such a</p> <p>21 document in the past as vice president,</p> <p>22 slash, director of Alexander Capital</p> <p>23 Holdings, Inc.?</p> <p>24 A. Not sure. Is that Alexander</p> <p>25 Capital Holdings, Inc.?</p>	<p style="text-align: right;">Page 152</p> <p>1 Rocco Guidici Pietro</p> <p>2 Alexander Capital Holdings, Inc., filed with</p> <p>3 the secretary of state. Now, these</p> <p>4 certificates were issued by the secretary of</p> <p>5 state June 7, 2021, regarding the records</p> <p>6 that are on file with the state of Delaware.</p> <p>7 Now, this is -- I will start at the bottom</p> <p>8 here. This is a tax filing regarding</p> <p>9 Alexander Capital Holdings, Inc., for the tax</p> <p>10 year 2013. And on the page preceding it, for</p> <p>11 2013, it refers to Alexander Capital</p> <p>12 Holdings, Inc., it has the 17 State Street,</p> <p>13 5th Floor, address we referred to previously.</p> <p>14 And it says under "shares," the owner of</p> <p>15 shares, it lists "Joseph Figliolo" at "17</p> <p>16 State Street." Do you see that?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. And then it -- under</p> <p>19 "directors" it lists Joseph Amato at the</p> <p>20 Alexander Capital, LP address, and you,</p> <p>21 yourself, Rocco Guidici Pietro, at the</p> <p>22 Alexander Capital, LP address.</p> <p>23 In looking at that filing that was</p> <p>24 made in 2013 with the secretary of state's</p> <p>25 office in Delaware, regarding the paying of</p>

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<p style="text-align: right;">Page 153</p> <p>1 Rocco Guidici Pietro</p> <p>2 the taxes for Alexander Capital Holdings,</p> <p>3 Inc., does that refresh your recollection at</p> <p>4 all of your involvement with Alexander</p> <p>5 Capital Holdings, Inc.?</p> <p>6 A. No, it doesn't, actually.</p> <p>7 Q. Okay.</p> <p>8 A. Confusing me, actually.</p> <p>9 Q. Okay. Now, I am showing you for</p> <p>10 2014, again, it's showing Mr. Figliolo with</p> <p>11 the Alexander Capital, LP address for the tax</p> <p>12 year ending in 2014, '14, and again, Mr.</p> <p>13 Amato with the -- is listed as director with</p> <p>14 the Alexander Capital, LP address, and</p> <p>15 yourself, Rocco Guidici Pietro, at the</p> <p>16 Alexander Capital address, and this is for</p> <p>17 the tax year ending in 2014. In looking at</p> <p>18 that document, does that help refresh your</p> <p>19 recollection at all as to whether you had</p> <p>20 involvement, such as indicated in this</p> <p>21 document, you know, at that time, or at any</p> <p>22 time?</p> <p>23 A. No, it doesn't, actually.</p> <p>24 Q. Okay. I am now showing you the</p> <p>25 same type of document, but this time it's for</p>	<p style="text-align: right;">Page 155</p> <p>1 Rocco Guidici Pietro</p> <p>2 All right, I put another document</p> <p>3 on the screen. Do you see this document?</p> <p>4 It's a black-and-white copy with FINRA</p> <p>5 letterhead on the top. Do you see that?</p> <p>6 A. Yes.</p> <p>7 Q. All right. It's dated June 11,</p> <p>8 2015, and it's a FINRA letter to Mr. Carmel,</p> <p>9 associate to Sichenzia, Ross, Freidman,</p> <p>10 Ference, LLP.</p> <p>11 Do you see that?</p> <p>12 A. Yes.</p> <p>13 Q. And it's "re, continuing membership</p> <p>14 application of Alexander Capital, LP."</p> <p>15 Do you see that?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. Were you aware of the fact</p> <p>18 in that -- that after the continuing</p> <p>19 membership application was filed in June 3 of</p> <p>20 2015, that FINRA made a response soon</p> <p>21 thereafter regarding the application? Are</p> <p>22 you aware of that?</p> <p>23 A. That's what they normally do.</p> <p>24 Q. Okay, you understand that they</p> <p>25 normally do that?</p>
<p style="text-align: right;">Page 154</p> <p>1 Rocco Guidici Pietro</p> <p>2 2015, and, again, it shows Mr. Figliolo</p> <p>3 having ownership of the shares, and it shows</p> <p>4 Joseph Amato and yourself with the Alexander</p> <p>5 Capital, LP address being the directors.</p> <p>6 Does that help refresh your recollection at</p> <p>7 all as to your involvement with Alexander</p> <p>8 Capital Holdings, Inc., in between the years</p> <p>9 2013, 2014, and 2015?</p> <p>10 A. No, it doesn't.</p> <p>11 Q. Now, this one, in 2015, has a</p> <p>12 signature. It says "vice president." Is</p> <p>13 that your -- do you recognize that as your</p> <p>14 signature?</p> <p>15 A. That's not my signature.</p> <p>16 Q. Do you recognize that as Mr.</p> <p>17 Figliolo's signature?</p> <p>18 A. I couldn't be 100 percent sure.</p> <p>19 Q. Okay. Again, in 2014, same answer,</p> <p>20 and in 2013, I take it your answer is the</p> <p>21 same regarding Mr. Figliolo's signature?</p> <p>22 A. Yes, it looks like his, but I can't</p> <p>23 be 100 percent sure.</p> <p>24 Q. Okay, all right. And...there we</p> <p>25 go. All right. Share screen.</p>	<p style="text-align: right;">Page 156</p> <p>1 Rocco Guidici Pietro</p> <p>2 A. Yeah, that's they -- I didn't see</p> <p>3 the response, though. I don't know if I saw</p> <p>4 this.</p> <p>5 Q. Okay, I will show it to you. This</p> <p>6 is Plaintiff's Exhibit 127. It's a letter</p> <p>7 from FINRA dated June 11, 2015. The</p> <p>8 application had been filed on June 3, 2015.</p> <p>9 And it states, "Dear Mr. Carmel," in the</p> <p>10 first paragraph, "on June 3, 2015, FINRA's</p> <p>11 membership application programs staff</p> <p>12 received a continuing membership application,</p> <p>13 application, for Alexander Capital, LP, the</p> <p>14 firm, which requested approval, A, for an</p> <p>15 ownership change, B, to engage in firm</p> <p>16 commitment underwriting, C, to engage in</p> <p>17 proprietary trading, D, in connection with</p> <p>18 its business expansion, increase its</p> <p>19 statutory net capital requirement to</p> <p>20 \$100,000, E, to increase the number of</p> <p>21 associated persons from 50 to 100, and in</p> <p>22 connection therewith, F, modify the</p> <p>23 restriction in its membership agreement</p> <p>24 limiting the firm to fifty associated</p> <p>25 persons." Do you see that?</p>

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<p style="text-align: right;">Page 157</p> <p>1 Rocco Guidici Pietro</p> <p>2 A. Yes.</p> <p>3 Q. Now, it says that -- now, is that</p> <p>4 consistent, that paragraph's description of</p> <p>5 the application, is that in any way -- is</p> <p>6 that consistent with your understanding that</p> <p>7 Alexander Capital, in 2015, had applied to</p> <p>8 FINRA for those -- for approval for those</p> <p>9 changes that we just went over listed in the</p> <p>10 FINRA letter of June 11, 2015?</p> <p>11 MR. SCHLICHTMANN: I'm</p> <p>12 sorry?</p> <p>13 MR. WARD: My objection?</p> <p>14 Vague.</p> <p>15 Q. Let me ask it again. In looking</p> <p>16 over that paragraph that I just read from the</p> <p>17 FINRA letter dated June 11, 2015, does that</p> <p>18 refresh your recollection at all regarding</p> <p>19 the fact that in 2015, Alexander Capital</p> <p>20 sought approval for the -- for the items</p> <p>21 listed in the first paragraph of that letter?</p> <p>22 A. Yes, in 2015, yes.</p> <p>23 Q. Yes, it does help refresh your</p> <p>24 recollection about that?</p> <p>25 A. Yes, in 2015, we requested that.</p>	<p style="text-align: right;">Page 159</p> <p>1 Rocco Guidici Pietro</p> <p>2 the rule number is 1017; is that correct?</p> <p>3 A. Yes.</p> <p>4 Q. Now, it says, "therefore, the staff</p> <p>5 hereby imposed the following interim</p> <p>6 restrictions pursuant to Rule 1017,</p> <p>7 subsection C, one, the firm is prohibited</p> <p>8 from effecting any portion of the</p> <p>9 aforementioned ownership change, the firm is</p> <p>10 also prohibiting from effecting any</p> <p>11 additional changes in ownership, regardless</p> <p>12 of percentage amount."</p> <p>13 Do you see that?</p> <p>14 A. Yes.</p> <p>15 Q. And then it says, number 2, "the</p> <p>16 firm is prohibited from making any changes or</p> <p>17 expansion to its business activities,</p> <p>18 including the addition of any associated</p> <p>19 persons and/or offices."</p> <p>20 Do you see that?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. Now, is it -- was it your</p> <p>23 understanding, in 2015, that FINRA at some</p> <p>24 point issued a letter to Alexander Capital's</p> <p>25 counsel, which imposed certain restrictions</p>
<p style="text-align: right;">Page 158</p> <p>1 Rocco Guidici Pietro</p> <p>2 Q. Okay. And this is exhibit -- I</p> <p>3 have not said it before, is 127. It's --</p> <p>4 this exhibit that we've been referring to is</p> <p>5 127.</p> <p>6 Now, it states in the second</p> <p>7 paragraph, while NASD Rule 1017C1, provides</p> <p>8 that a member may affect a change in</p> <p>9 ownership or control prior to the conclusion</p> <p>10 of the proceeding, the rule also specifies</p> <p>11 that the staff may place interim restrictions</p> <p>12 on the member based upon the standards and</p> <p>13 NASD Rule 1014 pending final action."</p> <p>14 Now, just as a matter -- are you</p> <p>15 familiar with NASD Rule 1017, or also known</p> <p>16 as, FINRA Rule 1017? Does that mean anything</p> <p>17 to you?</p> <p>18 A. I would have to look at the rules.</p> <p>19 Q. Is it your understanding that the</p> <p>20 continuing membership application is pursuant</p> <p>21 to either -- is NASD Rule 1017, also known as</p> <p>22 FINRA Rule 1017?</p> <p>23 A. It's part of the 1017 rule.</p> <p>24 Q. All right. You are familiar that</p> <p>25 there's a so-called application process, and</p>	<p style="text-align: right;">Page 160</p> <p>1 Rocco Guidici Pietro</p> <p>2 on it, as we just went over? In other words</p> <p>3 -- and I will summarize, a prohibition</p> <p>4 regarding effecting any portion -- any</p> <p>5 portion of the aforementioned ownership</p> <p>6 change, and prohibiting the firm from making</p> <p>7 any changes or expansions to its business</p> <p>8 activities?</p> <p>9 Was that your understanding, that</p> <p>10 at some point in 2015, FINRA issued such</p> <p>11 restrictions?</p> <p>12 A. That's my understanding, yes.</p> <p>13 Q. It is your understanding. Okay.</p> <p>14 Was it your understanding in 2015?</p> <p>15 A. I don't know the exact date. When</p> <p>16 we received the letter, I guess, that's when</p> <p>17 it was enforced.</p> <p>18 Q. All right. Is it your</p> <p>19 understanding that soon after FINRA issued</p> <p>20 this order, that those restrictions were</p> <p>21 enforced?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. Have you completed your</p> <p>24 answer?</p> <p>25 A. Yes.</p>

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<p style="text-align: right;">Page 161</p> <p>1 Rocco Guidici Pietro</p> <p>2 Q. All right. To your knowledge, to</p> <p>3 your knowledge, did Alexander Capital take</p> <p>4 any steps as a company to make anyone</p> <p>5 employed at Alexander Capital aware of any</p> <p>6 restrictions that FINRA had issued at that</p> <p>7 time, in 2015?</p> <p>8 A. No, not aware of it.</p> <p>9 Q. That it took any steps?</p> <p>10 A. Correct.</p> <p>11 Q. Okay. Based on your understanding</p> <p>12 of the practices and procedures of Alexander</p> <p>13 Capital, LP, in 2015, was it consistent with</p> <p>14 those practices and procedures in existence</p> <p>15 at that time, that if the company's counsel</p> <p>16 received a letter from FINRA regarding</p> <p>17 certain restrictions or activities, that the</p> <p>18 firm was prohibited from engaging in, at that</p> <p>19 time, that that would be a matter which</p> <p>20 should be brought to the attention of certain</p> <p>21 employees or people within officer or</p> <p>22 director relationship with Alexander Capital,</p> <p>23 LP?</p> <p>24 MR. WARD: Objection.</p> <p>25 Confusing and ambiguous.</p>	<p style="text-align: right;">Page 163</p> <p>1 Rocco Guidici Pietro</p> <p>2 speculation.</p> <p>3 MR. SCHLICHTMANN: Okay, I</p> <p>4 don't want any speculation.</p> <p>5 Q. Is it -- was it consistent with the</p> <p>6 practices and procedures of Alexander</p> <p>7 Capital, LP, for a lawyer representing</p> <p>8 Alexander Capital to provide the firm</p> <p>9 information that -- to provide the --</p> <p>10 Alexander Capital information that the law</p> <p>11 firm had received regarding any prohibitions</p> <p>12 or restrictions issued by FINRA regarding</p> <p>13 Alexander Capital's business activities?</p> <p>14 MR. WARD: Objection.</p> <p>15 Ambiguous.</p> <p>16 MR. SCHLICHTMANN: Okay, I</p> <p>17 will withdraw the question.</p> <p>18 Q. To your knowledge, did Mr. Ross or</p> <p>19 anyone associated with Sichenzia, Ross,</p> <p>20 Freidman, Ference, to your knowledge, did</p> <p>21 they ever communicate to any person at</p> <p>22 Alexander Capital, LP that they had received</p> <p>23 this letter dated June 11, 2015, Plaintiff's</p> <p>24 Exhibit 127?</p> <p>25 A. Not that I recall.</p>
<p style="text-align: right;">Page 162</p> <p>1 Rocco Guidici Pietro</p> <p>2 MR. SCHLICHTMANN: All</p> <p>3 right, I don't want to be confusing</p> <p>4 and ambiguous.</p> <p>5 Q. Based on your understanding of the</p> <p>6 practices and procedures in existence in 2015</p> <p>7 and Alexander Capital, LP, was it consistent</p> <p>8 with the practices and procedures at that</p> <p>9 time for the -- for any restrictions by FINRA</p> <p>10 that were issued prohibiting the firm from</p> <p>11 engaging in certain activities, that that was</p> <p>12 something that should be brought to the</p> <p>13 attention of particular people at Alexander</p> <p>14 Capital, LP?</p> <p>15 A. Policy and procedure, not that I am</p> <p>16 aware of, no.</p> <p>17 Q. Would it have been appropriate</p> <p>18 based on your understanding of the practice</p> <p>19 and procedures of Alexander Capital in 2015</p> <p>20 for the attorney for Sichenzia Ross as the</p> <p>21 law firm representing Alexander Capital not</p> <p>22 to inform someone at Alexander Capital of the</p> <p>23 firm's receipt of a letter like this at that</p> <p>24 time?</p> <p>25 MR. WARD: Objection to</p>	<p style="text-align: right;">Page 164</p> <p>1 Rocco Guidici Pietro</p> <p>2 Q. Would that have been appropriate?</p> <p>3 Would it have been appropriate, based on your</p> <p>4 understanding of the practices and procedures</p> <p>5 at Alexander Capital, LP, at that time, for</p> <p>6 Mr. Ross or anyone associated with Sichenzia</p> <p>7 Ross not to have forwarded on to someone at</p> <p>8 Alexander Capital, LP their receipt of a</p> <p>9 letter like this dated June 11, 2015,</p> <p>10 Plaintiff's Exhibit 127?</p> <p>11 A. I lost track of your question.</p> <p>12 Sorry, what was the question?</p> <p>13 Q. Sorry. That's all right. I</p> <p>14 appreciate that.</p> <p>15 Based on your understanding of the</p> <p>16 Alexander Capital practices and procedures as</p> <p>17 of 2015, would it have been appropriate for</p> <p>18 Mr. Carmel not to have forwarded on to</p> <p>19 someone at Alexander Capital, LP the fact</p> <p>20 that the firm Sichenzia, Ross, Ference had</p> <p>21 received from FINRA a letter such as the one</p> <p>22 depicted in Plaintiff's 127, dated June 11,</p> <p>23 2015?</p> <p>24 MR. WARD: Objection.</p> <p>25 Confusing.</p>

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<p style="text-align: right;">Page 165</p> <p>1 Rocco Guidici Pietro</p> <p>2 Q. Well, let me ask: Mr.</p> <p>3 Guidici Pietro, are you confused by that</p> <p>4 question? If you are, I will rephrase it.</p> <p>5 If you do understand it, you are free to</p> <p>6 answer.</p> <p>7 A. No, I don't understand --</p> <p>8 Q. Okay.</p> <p>9 A. -- the question.</p> <p>10 Q. Is there a particular part of the</p> <p>11 question that bothers you or just too</p> <p>12 confusing?</p> <p>13 A. No, just too long.</p> <p>14 Q. Too long, okay. Okay. I</p> <p>15 appreciate that. Was it -- was it</p> <p>16 appropriate, in 2015, for Mr. Carmel not to</p> <p>17 have forwarded to someone at Alexander</p> <p>18 Capital, LP this letter dated June 11, 2015,</p> <p>19 that he received from FINRA, Plaintiff's</p> <p>20 Exhibit 127?</p> <p>21 MR. WARD: Objection.</p> <p>22 Vague. Calls for speculation.</p> <p>23 Q. Do you understand the question,</p> <p>24 Mr. Guidici Pietro?</p> <p>25 A. I understand the question but it's</p>	<p style="text-align: right;">Page 167</p> <p>1 Rocco Guidici Pietro</p> <p>2 did Mr. Carmel or anyone from Sichenzia,</p> <p>3 Ross, Freidman, and Ference send anyone at</p> <p>4 Alexander Capital, LP, the law firm's receipt</p> <p>5 of this letter, dated June 11, 2015,</p> <p>6 Plaintiff's Exhibit 127?</p> <p>7 A. Not to my knowledge.</p> <p>8 Q. And this is -- is this the first</p> <p>9 time you are seeing this letter?</p> <p>10 A. I believe I saw it, but I can't</p> <p>11 give you a time frame when.</p> <p>12 Q. Was it recently?</p> <p>13 A. I don't recall.</p> <p>14 Q. Was it at any time during 2013,</p> <p>15 2015?</p> <p>16 A. I don't know.</p> <p>17 Q. Could it have been?</p> <p>18 A. I don't know.</p> <p>19 Q. Okay. So it could have been</p> <p>20 sometime in 2015 or it could be sometime</p> <p>21 recently or sometime in between?</p> <p>22 A. It could have been any time between</p> <p>23 then and now.</p> <p>24 Q. All right. And nothing in seeing</p> <p>25 this letter helps you refresh your</p>
<p style="text-align: right;">Page 166</p> <p>1 Rocco Guidici Pietro</p> <p>2 difficult to answer.</p> <p>3 Q. Okay. Is there some part of it</p> <p>4 that's giving you difficulty?</p> <p>5 A. I can't speculate on what the</p> <p>6 lawyer's intentions were in this legal</p> <p>7 back-and-forth confidentiality on what the</p> <p>8 lawyer deals with FINRA.</p> <p>9 Q. Okay. But was it your</p> <p>10 understanding, in 2015, that it was</p> <p>11 appropriate for any lawyer representing</p> <p>12 Alexander Capital not to forward on to</p> <p>13 someone at Alexander Capital, LP, an official</p> <p>14 action or letter indicating an official</p> <p>15 action regarding Alexander Capital, LP?</p> <p>16 MR. WARD: Objection.</p> <p>17 Vague.</p> <p>18 Q. Do you understand the question?</p> <p>19 A. Yes, but it's impossible to answer</p> <p>20 it.</p> <p>21 Q. It's impossible; why is that?</p> <p>22 A. Because it's the lawyer's decision</p> <p>23 on what to do with the letter. I leave it up</p> <p>24 to his opinion.</p> <p>25 Q. All right. And to your knowledge,</p>	<p style="text-align: right;">Page 168</p> <p>1 Rocco Guidici Pietro</p> <p>2 recollection at all as to when you were made</p> <p>3 aware of this letter?</p> <p>4 A. Not -- not exactly when I was made</p> <p>5 aware of it.</p> <p>6 Q. Okay. If in -- based on your</p> <p>7 understanding of the practices and procedures</p> <p>8 of Alexander Capital in 2015, is there</p> <p>9 someone at Alexander Capital who should have</p> <p>10 received a copy of this letter soon after the</p> <p>11 law firm received it?</p> <p>12 A. There's -- no, there's nothing on</p> <p>13 procedures that would address this letter.</p> <p>14 Q. Or who at Alexander Capital should</p> <p>15 be given a copy of it once it's received by</p> <p>16 the law firm?</p> <p>17 A. No, there's nothing that would</p> <p>18 receive it.</p> <p>19 Q. Is it up to the lawyer, was that</p> <p>20 your understanding at that time?</p> <p>21 A. Yes.</p> <p>22 Q. And to your knowledge, you don't</p> <p>23 know if anyone at Sichenzia actually</p> <p>24 forwarded this letter after its receipt in</p> <p>25 June 11, 2015, correct?</p>

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<p style="text-align: right;">Page 169</p> <p>1 Rocco Guidici Pietro</p> <p>2 A. I can't confirm they did.</p> <p>3 Q. You can't confirm that they did, is</p> <p>4 that what you are saying?</p> <p>5 A. I can't confirm that they did.</p> <p>6 Q. Okay. All right.</p> <p>7 MR. WARD: It's about an</p> <p>8 hour and fifteen. Wonder if we can</p> <p>9 take a break.</p> <p>10 MR. SCHLICHTMANN:</p> <p>11 Absolutely. How long?</p> <p>12 MR. WARD: Five minutes.</p> <p>13 Rocco, if you want more time.</p> <p>14 THE WITNESS: No, it's fine.</p> <p>15 I will get a bottle of water.</p> <p>16 MR. WARD: We will take ten</p> <p>17 minutes. We will try to make it</p> <p>18 shorter than that.</p> <p>19 MR. SCHLICHTMANN: That's</p> <p>20 fine. Ten minutes is fine.</p> <p>21 THE VIDEOGRAPHER: Off the</p> <p>22 record. The time is 2:25.</p> <p>23 (Whereupon, the requested</p> <p>24 portion was read by the reporter.)</p> <p>25 THE VIDEOGRAPHER: We are</p>	<p style="text-align: right;">Page 171</p> <p>1 Rocco Guidici Pietro</p> <p>2 Q. Can you describe your understanding</p> <p>3 of it?</p> <p>4 A. Just some allegations that was put</p> <p>5 against the firm.</p> <p>6 Q. Okay. Were you aware in 2015 that</p> <p>7 FINRA had notified the firm that it was</p> <p>8 starting an examination or investigation of</p> <p>9 previous conduct that had occurred at the</p> <p>10 firm Alexander Capital, LP?</p> <p>11 A. I know -- I don't know specific</p> <p>12 dates but yes.</p> <p>13 Q. Okay. And in answering the</p> <p>14 question about why that matter should not</p> <p>15 impact the application, the CMA, the</p> <p>16 continuing membership application, the lawyer</p> <p>17 for Sichenzia made this statement: "In</p> <p>18 December of 2013" -- this is on page three.</p> <p>19 "In December of 2013, a full year after the</p> <p>20 last misconduct alleged by the staff, active</p> <p>21 control of the firm was sold to Mr. Amato and</p> <p>22 Guidici Pietro."</p> <p>23 Do you see that?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. Now, first of all, is that</p>
<p style="text-align: right;">Page 170</p> <p>1 Rocco Guidici Pietro</p> <p>2 now back on the record. The time</p> <p>3 is 2:37.</p> <p>4 Q. All right. I am going to show you</p> <p>5 what I have previously shown you okay. This</p> <p>6 is Plaintiff's Exhibit 129. This is a letter</p> <p>7 dated October 27, 2015. Do you remember we</p> <p>8 went over that previously?</p> <p>9 A. Yes I am assuming.</p> <p>10 Q. Okay, again, this a letter from</p> <p>11 Sichenzia Ross to Mr. Francois at FINRA,</p> <p>12 dated October 27, 2015, and in this letter, I</p> <p>13 want to refer to a particular section. It</p> <p>14 says that in -- that the -- one of the items</p> <p>15 that FINRA was requesting information about</p> <p>16 regarding the continuing membership</p> <p>17 application was, as shown here, "As</p> <p>18 discussed, the firm was issued a wells</p> <p>19 notification as of September 1st, 2015, and</p> <p>20 please provide a detailed statement as to why</p> <p>21 the matters noted should not impact the</p> <p>22 application."</p> <p>23 First of all, do you know what a</p> <p>24 "wells notification" is, Mr. Guidici Pietro?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 172</p> <p>1 Rocco Guidici Pietro</p> <p>2 consistent with your understanding that in</p> <p>3 December of 2013, both you and Mr. Amato took</p> <p>4 over active control of Alexander Capital, LP?</p> <p>5 A. Control, not ownership.</p> <p>6 Q. But control, correct?</p> <p>7 A. Control, part control. There was</p> <p>8 still people there.</p> <p>9 Q. When you say, "people there," what</p> <p>10 do you mean "people there"?</p> <p>11 A. Previous owners, they had control.</p> <p>12 Q. Also? Was it shared control?</p> <p>13 A. We had certain control, but they</p> <p>14 had the ultimate control.</p> <p>15 Q. When you say, "they," who's the</p> <p>16 "they"?</p> <p>17 A. Fran Lanaia.</p> <p>18 Q. Who now?</p> <p>19 A. Fran Lanaia.</p> <p>20 Q. Oh, Fran Lanaia. Ms. Lanaia, in</p> <p>21 December of 2013?</p> <p>22 A. I believe that's when she left.</p> <p>23 Q. Okay. And then who -- anybody take</p> <p>24 over her ownership interest?</p> <p>25 A. Mr. Fig, Figliolo.</p>

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<p style="text-align: right;">Page 173</p> <p>1 Rocco Guidici Pietro</p> <p>2 Q. Figliolo, correct?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. And did Mr. Figliolo then in</p> <p>5 taking over Ms. Lanaia's interest, which you</p> <p>6 said had ultimate control, does that mean</p> <p>7 that Figliolo, when he took over, he also</p> <p>8 took over that interest, that control</p> <p>9 interest?</p> <p>10 A. He wasn't registered, so he</p> <p>11 couldn't operate the firm.</p> <p>12 Q. Okay. So did he have any control</p> <p>13 over the firm?</p> <p>14 A. He had -- he was the owner.</p> <p>15 Q. He was the owner. Okay. Did he</p> <p>16 exercise control?</p> <p>17 A. He did not.</p> <p>18 Q. It says in this footnote, "a share</p> <p>19 having been previously sold to Mr. Figliola"</p> <p>20 -- I am sure that's a misspelling, it's</p> <p>21 Figliola -- -olo, "who has never had active</p> <p>22 control of any aspect of Alexander Capital"</p> <p>23 -- do you see that footnote?</p> <p>24 A. Yes.</p> <p>25 Q. Is that consistent with your</p>	<p style="text-align: right;">Page 175</p> <p>1 Rocco Guidici Pietro</p> <p>2 MR. SCHLICHTMANN: Let me</p> <p>3 withdraw the testimony.</p> <p>4 Q. In December of 2013, when you and</p> <p>5 Mr. Amato took over, quote, active control of</p> <p>6 the firm, were you aware as to who or what</p> <p>7 entity was the general partner of Alexander</p> <p>8 Capital, LP?</p> <p>9 MR. WARD: Objection.</p> <p>10 Confusing and misstates testimony.</p> <p>11 MR. SCHLICHTMANN: All</p> <p>12 right.</p> <p>13 Q. Are you confused by my question,</p> <p>14 Mr. Guidici Pietro? If you are, I will</p> <p>15 restate it.</p> <p>16 A. No, I am not confused. I was just</p> <p>17 going to tell you, I didn't know. I don't</p> <p>18 know in those time frames.</p> <p>19 Q. As you sit here today, do you have</p> <p>20 any reason to believe that some person or</p> <p>21 entity was the general partner of Alexander</p> <p>22 Capital, LP at the time that you and Mr.</p> <p>23 Amato took over active control of the firm in</p> <p>24 December of 2013?</p> <p>25 MR. WARD: Objection.</p>
<p style="text-align: right;">Page 174</p> <p>1 Rocco Guidici Pietro</p> <p>2 understanding as to what Mr. Figliolo had in</p> <p>3 the nature of control over Alexander Capital</p> <p>4 after he took over his interest from Ms.</p> <p>5 Lanaia?</p> <p>6 A. Yes.</p> <p>7 Q. Was it your understanding that Mr.</p> <p>8 Figliolo had become the general partner of</p> <p>9 Alexander Capital when he took over Ms.</p> <p>10 Lanaia's interest as you described it?</p> <p>11 A. I don't know what he took over at</p> <p>12 that time.</p> <p>13 Q. All right. As of the time that he</p> <p>14 took over Ms. Lanaia's interest, do you know</p> <p>15 whether or not Alexander Capital had a</p> <p>16 general partner?</p> <p>17 A. I don't.</p> <p>18 Q. When Nesa Management, owned by you</p> <p>19 and Mr. Amato -- well, let me ask you this:</p> <p>20 When you and Mr. Amato, okay, took over,</p> <p>21 quote, active control of the firm, do you</p> <p>22 know who the general partner of Alexander</p> <p>23 Capital, LP was at the time?</p> <p>24 MR. WARD: Objection.</p> <p>25 Misstates prior testimony.</p>	<p style="text-align: right;">Page 176</p> <p>1 Rocco Guidici Pietro</p> <p>2 Misstates prior testimony.</p> <p>3 Q. Do you understand my question?</p> <p>4 A. Yes. No.</p> <p>5 Q. Sorry, "yes," what?</p> <p>6 A. I heard your question, yes, and,</p> <p>7 no, I don't believe there was any other</p> <p>8 general partner.</p> <p>9 Q. You say any other general partner.</p> <p>10 Does that mean you were aware of some general</p> <p>11 partner?</p> <p>12 A. No, I am not aware of who the</p> <p>13 general partner was.</p> <p>14 Q. Okay. And at some point did you</p> <p>15 become aware that Alexander Capital, LP had a</p> <p>16 general partner at some time after you became</p> <p>17 chief operating officer?</p> <p>18 A. No, I didn't -- I don't know what</p> <p>19 the structure was of the corporate structure.</p> <p>20 Q. Okay. Now, throughout the entire</p> <p>21 time you have been chief operating officer,</p> <p>22 are you aware as to whether or not any person</p> <p>23 or entity became the general partner of</p> <p>24 Alexander Capital, LP, during the time that</p> <p>25 you were -- have been chief operating</p>

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<p style="text-align: right;">Page 177</p> <p>1 Rocco Guidici Pietro</p> <p>2 officer?</p> <p>3 A. No, I am not aware of anybody else.</p> <p>4 Q. When you say, "anybody else," does</p> <p>5 that mean you are aware of somebody or some</p> <p>6 entity?</p> <p>7 A. I am not sure who the general</p> <p>8 partner was at the time.</p> <p>9 Q. Okay. Are you sure who the general</p> <p>10 partner is now?</p> <p>11 A. Actually I am not. I am not.</p> <p>12 Q. All right. You are still confused</p> <p>13 about that? Is that what you are saying?</p> <p>14 A. Yes, on the corporate structure I</p> <p>15 am not sure who's considered a general</p> <p>16 partner.</p> <p>17 Q. Okay. Are you aware of the fact</p> <p>18 that there was a decision in this case by</p> <p>19 Judge Raycoff in this matter that you are</p> <p>20 being deposed in?</p> <p>21 Are you aware that there was a</p> <p>22 decision issued by him regarding Defendant's</p> <p>23 motions to dismiss?</p> <p>24 A. I do.</p> <p>25 Q. Okay. Did you ever have a chance</p>	<p style="text-align: right;">Page 179</p> <p>1 Rocco Guidici Pietro</p> <p>2 concludes that the dissolution of Alexander</p> <p>3 Capital Holdings, Inc., triggered Alexander</p> <p>4 Capital, LP's non-judicial dissolution as a</p> <p>5 limited partnership as of April 30, 2012."</p> <p>6 Are you aware that the judge</p> <p>7 concluded that way in his opinion regarding</p> <p>8 that issue, or are you learning it for the</p> <p>9 first time from my reading it to you?</p> <p>10 MR. WARD: Objection.</p> <p>11 Instruct the witness not to answer</p> <p>12 to the extent it includes</p> <p>13 communication with counsel.</p> <p>14 MR. SCHLICHTMANN: Yes.</p> <p>15 Q. I do not want you to divulge any</p> <p>16 communication with counsel. I am just asking</p> <p>17 about your awareness.</p> <p>18 Were you aware, prior to today,</p> <p>19 that that was a conclusion that the judge</p> <p>20 made?</p> <p>21 A. Again, it was conversations with</p> <p>22 counsel. I am aware there was a decision</p> <p>23 made.</p> <p>24 Q. Okay. Thank you. It then says, a</p> <p>25 "Limited partnership may continue after its</p>
<p style="text-align: right;">Page 178</p> <p>1 Rocco Guidici Pietro</p> <p>2 to read the opinion?</p> <p>3 A. I don't believe so.</p> <p>4 Q. All right. In that opinion, Judge</p> <p>5 Raycoff makes the following statement: That</p> <p>6 "on April 30, 2012, Alexander Capital</p> <p>7 Holdings, Inc., filed a certificate of</p> <p>8 dissolution," and then he states, "The office</p> <p>9 of the secretary of state of Delaware has</p> <p>10 confirmed that it has no further records</p> <p>11 concerning the partnership status of</p> <p>12 Alexander Capital, LP," and this opinion was</p> <p>13 issued in -- on -- in July of this year,</p> <p>14 2021, all right. And then he states that</p> <p>15 "Delaware law provides that the occurrence of</p> <p>16 anyone of five specified events triggers the</p> <p>17 non-judicial dissolution of a limited</p> <p>18 partnership," and one of those events is</p> <p>19 "withdrawal of a general partner, unless at</p> <p>20 the time there's at least one other general</p> <p>21 partner," and then Judge Raycoff states,</p> <p>22 "because Defendants have not asserted that</p> <p>23 Alexander Capital, LP ever filed a</p> <p>24 certificate naming any other individual or</p> <p>25 entity as its general partner, the Court</p>	<p style="text-align: right;">Page 180</p> <p>1 Rocco Guidici Pietro</p> <p>2 dissolution for winding up purposes only.</p> <p>3 But Alexander Capital, LP did not stop</p> <p>4 operations following its legal dissolution as</p> <p>5 a limited partnership on April 30, 2012."</p> <p>6 And it -- it -- the judge says it -- the</p> <p>7 records that he saw "indicates that Alexander</p> <p>8 Capital, LP was active through at least</p> <p>9 2019," based on the records that were</p> <p>10 presented, and that "the report lists nine</p> <p>11 partners of Alexander Capital, LP, including</p> <p>12 Nesa Management, and certain officers,</p> <p>13 including Amato and Guidici Pietro," all</p> <p>14 right?</p> <p>15 And he then states, "Defendants</p> <p>16 have presented no records reflecting that</p> <p>17 Alexander Capital is taking -- has taken the</p> <p>18 steps necessary to reregister itself as a</p> <p>19 Delaware limited partnership. The Court</p> <p>20 concludes that Alexander Capital, LP has</p> <p>21 operated since May 1, 2012, as a Delaware</p> <p>22 partnership, rather than a limited</p> <p>23 partnership."</p> <p>24 Now, having -- my having read that</p> <p>25 opinion to you, what the judge concluded, do</p>

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<p style="text-align: right;">Page 181</p> <p>1 Rocco Guidici Pietro</p> <p>2 you have any -- can you provide any</p> <p>3 explanation as to why, after the certificate</p> <p>4 of dissolution was made of Alexander Capital</p> <p>5 Holdings, Inc., which was the entity -- the</p> <p>6 last entity in -- that the Delaware secretary</p> <p>7 of state was informed was the general partner</p> <p>8 of Alexander Capital, LP, that no other</p> <p>9 designation was made from that date, after</p> <p>10 dissolution of April 30, 2012, through the</p> <p>11 date of the judge's opinion?</p> <p>12 Do you have any explanation as to</p> <p>13 why that was the case?</p> <p>14 A. No.</p> <p>15 Q. Was it your understanding at any</p> <p>16 time that the general partner of Alexander</p> <p>17 Capital, LP had the obligation, under</p> <p>18 Delaware state law, if Alexander Capital, LP</p> <p>19 wished to maintain its status as a limited</p> <p>20 partnership, that it had the obligation to</p> <p>21 inform the secretary of state's office in</p> <p>22 Delaware within ninety days regarding any</p> <p>23 change regarding the status of the general</p> <p>24 partner? Were you aware of that at any time?</p> <p>25 A. No.</p>	<p style="text-align: right;">Page 183</p> <p>1 Rocco Guidici Pietro</p> <p>2 A. Do not, do not have an explanation.</p> <p>3 Q. Have you -- are you aware of any</p> <p>4 communications of any kind between yourself,</p> <p>5 Mr. Amato, or Nesa Management, LLC, the</p> <p>6 entity, and Mr. Figliolo, and/or Exitus, LLC,</p> <p>7 regarding whether or not communications</p> <p>8 needed to be made to the secretary of state's</p> <p>9 office of Delaware regarding who was, at any</p> <p>10 time, the general partner of Alexander</p> <p>11 Capital, LP?</p> <p>12 A. No, I am not aware of.</p> <p>13 Q. To this day?</p> <p>14 A. Well, up until the filing a couple</p> <p>15 of days ago.</p> <p>16 Q. Okay.</p> <p>17 A. No.</p> <p>18 Q. Are you aware of any</p> <p>19 communications, not covered -- not asking for</p> <p>20 any attorney-client privileged</p> <p>21 communications. I am asking communications</p> <p>22 between yourself, Mr. Guidici Pietro --</p> <p>23 yourself, Mr. Amato, Nesa Management, the</p> <p>24 entity, Mr. -- and Mr. Figliolo, and/or</p> <p>25 Exitus, LLC -- are you aware of any</p>
<p style="text-align: right;">Page 182</p> <p>1 Rocco Guidici Pietro</p> <p>2 Q. Are you aware of any financial or</p> <p>3 business interest that -- that either you or</p> <p>4 Mr. Amato, as owners of Nesa Management, and</p> <p>5 those who have been described as having</p> <p>6 active control of Alexander Capital, LP,</p> <p>7 since December of 2013 -- can you explain at</p> <p>8 all why neither Nesa, Mr. Amato, or yourself</p> <p>9 ever took any steps to inform the secretary</p> <p>10 of state of Delaware regarding the change in</p> <p>11 general partnership of Alexander Capital, LP?</p> <p>12 MR. WARD: Objection.</p> <p>13 Calls for speculation.</p> <p>14 Q. I don't want you to speculate.</p> <p>15 Did you understand my question?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. Do you have an explanation</p> <p>18 you can offer as to why no further</p> <p>19 designation was made by either yourself, Mr.</p> <p>20 Guidici Pietro, or Nesa Management --</p> <p>21 A. Do not.</p> <p>22 MR. WARD: Objection. Calls</p> <p>23 for speculation.</p> <p>24 Q. -- to the state of Delaware?</p> <p>25 You can answer.</p>	<p style="text-align: right;">Page 184</p> <p>1 Rocco Guidici Pietro</p> <p>2 communications between or among those people</p> <p>3 and entities, regarding whether or not a</p> <p>4 filing should be made with the secretary of</p> <p>5 state's office of Delaware, regarding</p> <p>6 informing the secretary of state as to who</p> <p>7 the general partner of Alexander Capital, LP</p> <p>8 was?</p> <p>9 A. What time frame?</p> <p>10 Q. From 2013 through the present. And</p> <p>11 I am not asking for any communications with</p> <p>12 counsel regarding this. I am asking for</p> <p>13 communications that were made between and</p> <p>14 among yourself, Mr. Amato, Nesa Management,</p> <p>15 the entity, Exitus LLC, and/or Mr. Figliolo,</p> <p>16 regarding designating the general partner.</p> <p>17 A. No, I am not.</p> <p>18 Q. I know you were interrupted, so let</p> <p>19 me restate the question again, I'm sorry. I</p> <p>20 appreciate you had an interruption there.</p> <p>21 A. Yes.</p> <p>22 Q. Again, I am not asking for any</p> <p>23 communications covered by the attorney-client</p> <p>24 privilege, all right?</p> <p>25 What I am asking is: Are you aware</p>

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<p style="text-align: right;">Page 185</p> <p>1 Rocco Guidici Pietro</p> <p>2 of any communications between yourself, Mr.</p> <p>3 Amato, Nesa Management, LLC, the entity, and</p> <p>4 Mr. Figliolo, and/or Exitus, LLC, the entity,</p> <p>5 regarding making a communication to the state</p> <p>6 of Delaware, secretary of state's office,</p> <p>7 regarding who the general partner of</p> <p>8 Alexander Capital, LP was at any particular</p> <p>9 time?</p> <p>10 A. No, I do not. I don't remember any</p> <p>11 communications between us.</p> <p>12 Q. Okay. And did you -- and just to</p> <p>13 be clear, do you remember any communications</p> <p>14 between -- and that means, you know, oral,</p> <p>15 written, e-mail, you know, nonverbal. It</p> <p>16 doesn't matter. Any communications between</p> <p>17 yourself and Mr. Amato concerning whether or</p> <p>18 not to make a communication to the secretary</p> <p>19 of state's office of Delaware, regarding who</p> <p>20 the general partner is of Alexander Capital,</p> <p>21 LP, at any time?</p> <p>22 A. Up until a couple of days ago, that</p> <p>23 was it. Nothing prior.</p> <p>24 Q. And so until a couple days ago,</p> <p>25 that's the first time you had discussion with</p>	<p style="text-align: right;">Page 187</p> <p>1 Rocco Guidici Pietro</p> <p>2 Amato, together or alone, had any</p> <p>3 communications with Mr. Figliolo, regarding</p> <p>4 informing the secretary of state's office,</p> <p>5 concerning the -- who the general partner of</p> <p>6 Alexander Capital, LP was?</p> <p>7 MR. WARD: Objection.</p> <p>8 Calls for speculation.</p> <p>9 A. I can't answer for Mr. Amato. I</p> <p>10 can answer for myself. I did not.</p> <p>11 Q. Okay. Are you aware as to whether</p> <p>12 anyone else, other than yourself, had any</p> <p>13 such communications with Mr. Figliolo, and I</p> <p>14 am not including communications with</p> <p>15 attorneys?</p> <p>16 A. Then the answer is no.</p> <p>17 Q. Okay. I am just going to -- I</p> <p>18 still have this Exhibit 129 on the screen,</p> <p>19 right? You can see it, Mr. Amato? Mr.</p> <p>20 Guidici Pietro, excuse me.</p> <p>21 Is that correct?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. All right. Now I will just</p> <p>24 go to a different portion of the letter.</p> <p>25 It's long. It has several exhibits attached</p>
<p style="text-align: right;">Page 186</p> <p>1 Rocco Guidici Pietro</p> <p>2 Mr. Amato; is that correct?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. And did you also have</p> <p>5 discussions a couple of days ago, either</p> <p>6 yourself or Mr. Amato, with Mr. Figliolo, or</p> <p>7 anyone else representing Exitus, and I am not</p> <p>8 including attorneys?</p> <p>9 A. Well, Mr. Figliolo is an attorney,</p> <p>10 so that's privileged.</p> <p>11 MR. SCHLICHTMANN: Well,</p> <p>12 Bryan, are we asserting a privilege</p> <p>13 with Mr. Figliolo?</p> <p>14 MR. WARD: No. You can</p> <p>15 discuss anything you had -- any</p> <p>16 discussions you had with Mr.</p> <p>17 Figliolo.</p> <p>18 Q. Okay, so I want to be very clear</p> <p>19 and, again, I want to be very sensitive to</p> <p>20 the attorney-client communications, all</p> <p>21 right? I am not in any way asking for those.</p> <p>22 What I am asking is: Do you -- you said you</p> <p>23 had communications with Mr. Amato just a</p> <p>24 couple of days ago. Now I am asking: Are</p> <p>25 you aware that -- that either you or Mr.</p>	<p style="text-align: right;">Page 188</p> <p>1 Rocco Guidici Pietro</p> <p>2 to it. I am going to just show you a FINRA</p> <p>3 letter dated September 1, 2015, that was</p> <p>4 attached to this letter, this exhibit, and in</p> <p>5 it, FINRA, in a letter dated September 1,</p> <p>6 2015, to Alexander Capital, care of a law</p> <p>7 firm, is -- states that "On September 1st,</p> <p>8 the staff of FINRA's Department of</p> <p>9 Enforcement advised you that it made a</p> <p>10 preliminary determination to recommend that</p> <p>11 disciplinary action be brought against</p> <p>12 Alexander Capital, LP." Do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. And I believe you did say</p> <p>15 you were aware, in 2015, that FINRA did</p> <p>16 notify Alexander Capital that it was</p> <p>17 intending to bring an investigatory action</p> <p>18 against the firm in 2015.</p> <p>19 Did I understand your testimony</p> <p>20 correctly?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. Now, in -- a response was</p> <p>23 made by counsel for Alexander Capital, which</p> <p>24 is attached to this exhibit, and I just want</p> <p>25 to draw your attention to one part of it.</p>

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<p style="text-align: right;">Page 189</p> <p>1 Rocco Guidici Pietro</p> <p>2 Are you aware of the fact that in between</p> <p>3 2012 and 2013, that you and Mr. Amato wished</p> <p>4 to acquire an interest in Alexander Capital,</p> <p>5 LP? Are you aware of that?</p> <p>6 A. I don't remember the exact dates</p> <p>7 but --</p> <p>8 Q. That sound right?</p> <p>9 A. Yes.</p> <p>10 Q. And do you remember that that</p> <p>11 process -- do you have any memory that that</p> <p>12 process took a long period of time, in order</p> <p>13 to get approval from FINRA for a change in</p> <p>14 ownership of Alexander Capital, LP?</p> <p>15 A. CMAs take a lot of time, yes.</p> <p>16 Q. You remember that particular one</p> <p>17 did; is that right?</p> <p>18 A. Yes, that one took a long time.</p> <p>19 Q. Was it your understanding that the</p> <p>20 change in ownership approval that was being</p> <p>21 sought at that time was Mr. Figliolo, through</p> <p>22 Exitus, was seeking approval for his</p> <p>23 purchasing 75.1 percent -- or excuse me --</p> <p>24 purchasing 100 percent ownership from Ms.</p> <p>25 Lanaia?</p>	<p style="text-align: right;">Page 191</p> <p>1 Rocco Guidici Pietro</p> <p>2 took over active control of the firm, as we</p> <p>3 previously discussed. I am asking that</p> <p>4 particular period.</p> <p>5 Do you have a memory as to whether</p> <p>6 you, Mr. Amato, Nesa Management, together, in</p> <p>7 combination, were in any way involved with</p> <p>8 Mr. Figliolo and Exitus in trying to obtain</p> <p>9 approval by FINRA for a change in ownership</p> <p>10 from Ms. Lanaia?</p> <p>11 A. I don't understand your question.</p> <p>12 It's two questions in one.</p> <p>13 Q. Okay. From 2012, before you and</p> <p>14 Mr. Amato took over active control of the</p> <p>15 firm, were you aware that there was an</p> <p>16 application made to FINRA for approval of</p> <p>17 change of ownership from Ms. Lanaia?</p> <p>18 A. Yes.</p> <p>19 Q. And who, to your knowledge, was</p> <p>20 involved in seeking that change in ownership?</p> <p>21 A. Exitus.</p> <p>22 Q. Was it only Exitus?</p> <p>23 A. He was the one taking -- looking to</p> <p>24 own 100 percent, yes.</p> <p>25 Q. All right. It was not you and Mr.</p>
<p style="text-align: right;">Page 190</p> <p>1 Rocco Guidici Pietro</p> <p>2 A. I -- I don't remember which one was</p> <p>3 filed when.</p> <p>4 Q. All right. Do you -- do you have a</p> <p>5 memory that in order for Exitus or Mr.</p> <p>6 Figliolo -- owned by Mr. Figliolo, in order</p> <p>7 for it to acquire ownership interest from Ms.</p> <p>8 Lanaia, which was greater than 25 percent,</p> <p>9 that it had to obtain the approval from FINRA</p> <p>10 for that change?</p> <p>11 Are you aware of that at that time?</p> <p>12 A. Yes.</p> <p>13 Q. Were you aware -- okay. And did</p> <p>14 you -- to your knowledge, did you and Mr.</p> <p>15 Amato and/or the entity Nesa, either one of</p> <p>16 you individually or together or in</p> <p>17 combination, were you part of the FINRA</p> <p>18 approval process regarding the change in</p> <p>19 ownership from Mr. Lanaia at that time?</p> <p>20 A. I don't recall. We were at the</p> <p>21 firm, so we were probably in there somewhere,</p> <p>22 but I don't -- I don't know in what capacity.</p> <p>23 Q. All right. Now, this is before</p> <p>24 December 2013. This is between 2012 and</p> <p>25 before December 2013, when you and Mr. Amato</p>	<p style="text-align: right;">Page 192</p> <p>1 Rocco Guidici Pietro</p> <p>2 Amato and/or Nesa?</p> <p>3 A. Not involved in taking ownership.</p> <p>4 Q. Okay. Or seeking approval from</p> <p>5 FINRA during that period?</p> <p>6 A. Correct.</p> <p>7 Q. All right. Now, after -- now, at</p> <p>8 some point Mr. -- Exitus was approved to take</p> <p>9 over some portion of ownership from Ms.</p> <p>10 Lanaia; is that correct?</p> <p>11 A. Yes.</p> <p>12 Q. All right. And do you remember the</p> <p>13 percentage? Was it 100 percent?</p> <p>14 A. At the end of the application, he</p> <p>15 owned 100 percent.</p> <p>16 Q. Now, did he -- did Mr. Figliolo, to</p> <p>17 your memory, either directly or through</p> <p>18 Exitus, receive all of the ownership interest</p> <p>19 -- was approved to receive all of the</p> <p>20 ownership from Ms. Lanaia?</p> <p>21 A. Yes, he was approved to receive all</p> <p>22 of it.</p> <p>23 Q. And it was after he received that</p> <p>24 approval and received that ownership -- was</p> <p>25 there then an agreement entered into between</p>

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<p style="text-align: right;">Page 193</p> <p>1 Rocco Guidicipietro</p> <p>2 yourself, Mr. Amato, and/or involving Nesa,</p> <p>3 regarding purchasing some portion of the</p> <p>4 ownership interest that Mr. Figliolo had just</p> <p>5 acquired from Ms. Lanaia?</p> <p>6 A. Yes, Nesa acquired a portion.</p> <p>7 Q. Okay. And is that the 24.9 percent</p> <p>8 interest that it acquired at that time?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. And after the acquisition of</p> <p>11 that interest by Nesa, the 24.9 percent, it's</p> <p>12 fair to say that you and Mr. Amato took over</p> <p>13 active control of Alexander Capital, LP; is</p> <p>14 that correct?</p> <p>15 A. Yes.</p> <p>16 Q. All right. Now, it says in this</p> <p>17 letter from counsel for Alexander Capital, it</p> <p>18 says, "During the time period" -- you see</p> <p>19 this full paragraph here? It's on page 3 of</p> <p>20 the letter. Subsection is titled "Alexander</p> <p>21 Capital, LP."</p> <p>22 Do you see that?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. It says, "Alexander Capital,</p> <p>25 LP, is a New York-based brokerage firm</p>	<p style="text-align: right;">Page 195</p> <p>1 Rocco Guidicipietro</p> <p>2 A. I am not sure if that's before or</p> <p>3 after.</p> <p>4 Q. "Before or after what" now?</p> <p>5 A. Before or after he had 100 percent</p> <p>6 control.</p> <p>7 Q. That in 2012 he became a silent</p> <p>8 partner in the firm? Is that what you are</p> <p>9 saying?</p> <p>10 A. Yes.</p> <p>11 Q. In other words -- Well, what's your</p> <p>12 understanding of when he became a silent</p> <p>13 partner in regards to his purchase or</p> <p>14 acquisition of an ownership interest?</p> <p>15 Was he a silent partner before an</p> <p>16 acquisition of ownership interest?</p> <p>17 A. He had a small percentage.</p> <p>18 Q. Of Alexander Capital, LP?</p> <p>19 A. Of Alexander Capital, LP.</p> <p>20 Q. Okay. Before he acquired Ms.</p> <p>21 Lanaia's 100 percent ownership; is that what</p> <p>22 you are saying?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. "In December 2013, two years</p> <p>25 after the period covered by the staff's</p>
<p style="text-align: right;">Page 194</p> <p>1 Rocco Guidicipietro</p> <p>2 founded in 1995. It has been a member of</p> <p>3 FINRA since 1996." Do you see that?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. And then it says that</p> <p>6 "During the time period covered by the</p> <p>7 staff's investigation," and that time period</p> <p>8 was before 2012, "the firm was owned by,</p> <p>9 among others, Allan Boxer, and HK Landis</p> <p>10 Capital, LLC." Do you see that?</p> <p>11 A. Yes.</p> <p>12 Q. Is that your understanding?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. It says, "In 2012, Exitus,</p> <p>15 LLC, which is owned by Joseph Figliolo,</p> <p>16 became a silent partner in the firm." Do you</p> <p>17 see that?</p> <p>18 A. Yes.</p> <p>19 Q. Is that consistent with your</p> <p>20 understanding of what occurred in 2012?</p> <p>21 A. Yes.</p> <p>22 Q. And is that in -- regarding his</p> <p>23 purchasing from Ms. Lanaia, after gaining</p> <p>24 FINRA approval, the -- Ms. Lanaia's ownership</p> <p>25 interest in Alexander Capital, LP?</p>	<p style="text-align: right;">Page 196</p> <p>1 Rocco Guidicipietro</p> <p>2 investigation, Nesa management, LLC, which is</p> <p>3 owned by Joseph Amato and Rocco</p> <p>4 Guidicipietro, purchased an interest in the</p> <p>5 firm."</p> <p>6 Is that your understanding, that</p> <p>7 that occurred?</p> <p>8 A. Yes.</p> <p>9 Q. And it says, "Mr. Amato and</p> <p>10 Guidicipietro, neither of whom were at the</p> <p>11 firm in 2010, 2011, are now active owners and</p> <p>12 partners in the firm."</p> <p>13 Do you see that statement?</p> <p>14 A. I see the statement.</p> <p>15 Q. Okay. As of 2015 -- and this is</p> <p>16 dated September, this letter from counsel for</p> <p>17 Alexander Capital, it states -- it make a</p> <p>18 statement that they are -- that you both, Mr.</p> <p>19 Amato and yourself, are, quote, "now active</p> <p>20 owners and partners in the firm." Do you see</p> <p>21 that?</p> <p>22 A. Yes, I see that.</p> <p>23 Q. Is it your understanding that that</p> <p>24 was a true statement at the time?</p> <p>25 A. No, it's not a true statement.</p>

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<p style="text-align: right;">Page 197</p> <p>1 Rocco Guidici Pietro</p> <p>2 Q. What about it is not true?</p> <p>3 A. We are not owners of the firm. We</p> <p>4 were indirect owners through Nesa. That</p> <p>5 sentence is out of context.</p> <p>6 Q. I'm sorry?</p> <p>7 A. The sentence is out of context.</p> <p>8 Nesa was --</p> <p>9 Q. All right, so if we -- so is it</p> <p>10 fair to say that the statement is true, that</p> <p>11 you and Mr. Amato, through your ownership of</p> <p>12 Nesa, became the active owners and partners</p> <p>13 in the firm?</p> <p>14 Is that what you are saying?</p> <p>15 A. Correct.</p> <p>16 Q. All right. Okay. Now, to your</p> <p>17 knowledge, once you and Mr. Amato, through</p> <p>18 Nesa, became the active owners and partners</p> <p>19 of Alexander Capital, LP, Mr. Figliolo,</p> <p>20 through Exitus, had the greater share of</p> <p>21 ownership than the two of you; is that</p> <p>22 correct?</p> <p>23 A. That's correct.</p> <p>24 Q. All right. And after you took over</p> <p>25 the active ownership and partnership in the</p>	<p style="text-align: right;">Page 199</p> <p>1 Rocco Guidici Pietro</p> <p>2 A. Not that I recall.</p> <p>3 Q. All right. And is that your</p> <p>4 understanding from that moment until now,</p> <p>5 that Mr. Figliolo either directly or</p> <p>6 indirectly has not made any capital</p> <p>7 contributions to Alexander Capital, LP?</p> <p>8 A. Not that I remember.</p> <p>9 Q. Okay. Now, do you, Mr.</p> <p>10 Guidici Pietro, do you have an understanding</p> <p>11 as to whether Alexander Capital, after you</p> <p>12 became chief operating officer, okay, after</p> <p>13 you became chief operating officer, which</p> <p>14 occurred in, I believe, 2012, all right, are</p> <p>15 you -- did you have an understanding as to</p> <p>16 whether Alexander Capital, LP, at the time</p> <p>17 you became chief operating officer, through</p> <p>18 2012 and 2013, now just that period of time,</p> <p>19 it undertook a firm commitment offering for</p> <p>20 any company, to your knowledge?</p> <p>21 A. To my knowledge, no.</p> <p>22 Q. In 2014, to your knowledge, did</p> <p>23 Alexander Capital, LP undertake any firm</p> <p>24 commitment offering for any company during</p> <p>25 2014?</p>
<p style="text-align: right;">Page 198</p> <p>1 Rocco Guidici Pietro</p> <p>2 firm, did Mr. Figliolo either individually or</p> <p>3 through Exitus or some other way, contribute</p> <p>4 capital to Alexander Capital, LP, at any</p> <p>5 time, after December -- you and Mr. Amato,</p> <p>6 through Nesa, became the active owners and</p> <p>7 partners in the firm?</p> <p>8 MR. WARD: Objection.</p> <p>9 Misleading and misstates the</p> <p>10 record.</p> <p>11 MR. SCHLICHTMANN: I don't</p> <p>12 want to do either one of those</p> <p>13 things.</p> <p>14 Q. After December of 2013, or after</p> <p>15 you and Mr. Amato, through Nesa, became</p> <p>16 active owners and partners in the firm, to</p> <p>17 your knowledge, did Mr. Figliolo, either as</p> <p>18 an individual, through Exitus, or any other</p> <p>19 person or entity, did he contribute capital</p> <p>20 directly or indirectly to Alexander Capital,</p> <p>21 LP?</p> <p>22 A. Not that I --</p> <p>23 MR. WARD: Objection.</p> <p>24 Calls for speculation.</p> <p>25 Q. You can answer.</p>	<p style="text-align: right;">Page 200</p> <p>1 Rocco Guidici Pietro</p> <p>2 A. Not that I recall, no.</p> <p>3 Q. 2015, to your knowledge, did</p> <p>4 Alexander Capital, LP undertake any firm</p> <p>5 commitment offering for any company during</p> <p>6 2015?</p> <p>7 A. Not that I recall.</p> <p>8 Q. In 2016?</p> <p>9 A. Not that I recall.</p> <p>10 Q. What's the first time that you</p> <p>11 recall Alexander Capital undertaking any firm</p> <p>12 commitment offering for any company?</p> <p>13 A. I couldn't tell you. I don't know.</p> <p>14 Q. Was it after 2016?</p> <p>15 A. I don't know.</p> <p>16 Q. Was it after receiving authority</p> <p>17 from FINRA to conduct firm commitment</p> <p>18 offerings?</p> <p>19 A. I don't know when the first one</p> <p>20 was.</p> <p>21 Q. All right. But you testified</p> <p>22 earlier that you received approval from FINRA</p> <p>23 in 2017; is that correct, approval to</p> <p>24 conduct -- let me just make sure.</p> <p>25 Did I understand your testimony</p>

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<p style="text-align: right;">Page 201</p> <p>1 Rocco Guidici Pietro</p> <p>2 previously that in 2017, Alexander Capital</p> <p>3 did receive approval from FINRA to conduct</p> <p>4 firm commitment offerings? Is that correct?</p> <p>5 A. Yes, to do firm commitment</p> <p>6 underwriting.</p> <p>7 Q. Okay. And is it -- okay. And to</p> <p>8 your knowledge, did Alexander Capital, LP,</p> <p>9 undertake any firm commitment offerings,</p> <p>10 prior to its receiving that approval in 2017</p> <p>11 from FINRA?</p> <p>12 A. To my recollection, no, we didn't</p> <p>13 take any on.</p> <p>14 Q. And in -- based on your knowledge</p> <p>15 of the practices and procedures of Alexander</p> <p>16 Capital, LP, would it have been appropriate</p> <p>17 for Alexander Capital, LP, prior to receiving</p> <p>18 its authorization in December of 2017, from</p> <p>19 FINRA, to have participated in a firm</p> <p>20 commitment offering?</p> <p>21 A. We always use best practices. We</p> <p>22 -- we wouldn't have took any on, I believe.</p> <p>23 Q. Would not have taken on any firm</p> <p>24 commitment offering?</p> <p>25 A. Not while we were in the process --</p>	<p style="text-align: right;">Page 203</p> <p>1 Rocco Guidici Pietro</p> <p>2 Q. To your knowledge, are the annual</p> <p>3 focus reports made available publicly?</p> <p>4 A. I am not sure.</p> <p>5 Q. All right. In -- were you involved</p> <p>6 -- did you have any involvement or</p> <p>7 responsibilities or duties, regarding the</p> <p>8 creation of those focus reports you just</p> <p>9 described?</p> <p>10 A. No.</p> <p>11 Q. Not at all?</p> <p>12 A. Not at all.</p> <p>13 Q. Okay. Would you have any...were</p> <p>14 you -- to your knowledge, were you the person</p> <p>15 that was supposed to be contacted regarding</p> <p>16 the focus reports, at any time?</p> <p>17 A. They would contact FINRA, if there</p> <p>18 were any questions.</p> <p>19 Q. But not you?</p> <p>20 A. Not me.</p> <p>21 Q. Based on your knowledge of the</p> <p>22 financial operations or financial status of</p> <p>23 the firm in 2014, and 2015, what was your</p> <p>24 understanding as to whether Alexander</p> <p>25 Capital, LP, based on the state of its</p>
<p style="text-align: right;">Page 202</p> <p>1 Rocco Guidici Pietro</p> <p>2 not until we were approved.</p> <p>3 Q. Now, in -- that was -- chief</p> <p>4 operating officer, in that position, which</p> <p>5 you have held since 2012, does that position</p> <p>6 allow you to become familiar with the</p> <p>7 financial operations of the company?</p> <p>8 A. Financial operations, yes.</p> <p>9 Q. Okay. And are you familiar with</p> <p>10 focus reports?</p> <p>11 A. Yes.</p> <p>12 Q. All right. And could you say what</p> <p>13 -- could you describe for us what a "focus</p> <p>14 report" is?</p> <p>15 A. A monthly report on the financial</p> <p>16 status of the firm.</p> <p>17 Q. And is the firm, to your knowledge,</p> <p>18 required to file monthly focus reports</p> <p>19 regarding the status -- financial status of</p> <p>20 the firm?</p> <p>21 A. Some are monthly, some are</p> <p>22 quarterly, yes.</p> <p>23 Q. Is it also required to file an</p> <p>24 annual one?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 204</p> <p>1 Rocco Guidici Pietro</p> <p>2 finances, was financially able to undertake a</p> <p>3 firm commitment underwriting of up to \$20</p> <p>4 million?</p> <p>5 A. What's the question?</p> <p>6 Q. What was your understanding as to</p> <p>7 whether Alexander Capital, LP had the</p> <p>8 financial ability to underwrite a firm</p> <p>9 commitment up to \$20 million during 2014 and</p> <p>10 2015?</p> <p>11 Did it have such a financial</p> <p>12 ability or it did not have such a financial</p> <p>13 ability?</p> <p>14 A. That's a double-edged question.</p> <p>15 Because did it have it in the firm, or could</p> <p>16 it have the ability to do it?</p> <p>17 Q. I am talking about the firm itself,</p> <p>18 Alexander Capital, LP.</p> <p>19 A. Capital could be added at any time.</p> <p>20 Q. By Alexander Capital, LP?</p> <p>21 A. By any of its owners.</p> <p>22 Q. That includes yourself and Amato?</p> <p>23 A. Myself.</p> <p>24 Q. And Amato?</p> <p>25 A. Amato, or you can get approval from</p>

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<p style="text-align: right;">Page 205</p> <p>1 Rocco Guidicipietro</p> <p>2 FINRA to add capital from anybody.</p> <p>3 Q. Okay. But I am specifically asking</p> <p>4 regarding the finances of Alexander Capital,</p> <p>5 LP, in 2014 and 2015. Did you have -- what</p> <p>6 was your understanding as to whether</p> <p>7 Alexander Capital, LP, regarding its finances</p> <p>8 during that period of time, had the financial</p> <p>9 ability -- I am not asking about legal</p> <p>10 authority. I am asking only the financial</p> <p>11 ability.</p> <p>12 Did it have the financial ability</p> <p>13 during that time to guarantee a firm</p> <p>14 commitment offering up to \$20 million?</p> <p>15 A. You could add the capital, so, yes.</p> <p>16 Q. And were you -- did you have an</p> <p>17 understanding as to the source -- the</p> <p>18 potential sources of such capital to</p> <p>19 Alexander Capital, LP during 2014 and 2015?</p> <p>20 A. I will not speculate on who would</p> <p>21 put capital in the firm, but we had the</p> <p>22 ability.</p> <p>23 Q. Did you and Mr. Amato, by</p> <p>24 yourselves, have such capacity at that time?</p> <p>25 A. Not personally, no.</p>	<p style="text-align: right;">Page 207</p> <p>1 Rocco Guidicipietro</p> <p>2 capital contributions to the firm. Do you</p> <p>3 remember that?</p> <p>4 A. Yes.</p> <p>5 Q. Was it your understanding, in 2015,</p> <p>6 that Mr. Carlin had the capacity to provide</p> <p>7 such capital to underwrite a firm commitment</p> <p>8 offering up to \$20 million, in 2014, 2015?</p> <p>9 A. Again, you are putting it on one</p> <p>10 person. You can have twenty --</p> <p>11 Q. I understand, but I am asking --</p> <p>12 A. Yes.</p> <p>13 Q. I am asking specifically. I know</p> <p>14 we are talking over each other. I apologize.</p> <p>15 I am asking --</p> <p>16 A. I do as well.</p> <p>17 Q. It's all right. It's late in the</p> <p>18 day. I appreciate it.</p> <p>19 Referring to Mr. Carlin, himself,</p> <p>20 did you have an understanding as to whether</p> <p>21 he had the capacity to guarantee a firm</p> <p>22 commitment offering up to \$20 million --</p> <p>23 MR. WARD: Objection.</p> <p>24 Vague.</p> <p>25 Q. -- in 2015?</p>
<p style="text-align: right;">Page 206</p> <p>1 Rocco Guidicipietro</p> <p>2 Q. Did Nesa Management, as an entity,</p> <p>3 have that capacity?</p> <p>4 A. No.</p> <p>5 Q. Did Mr. Figliolo, individually or</p> <p>6 through Exitus, have such capacity?</p> <p>7 A. I will not answer for him.</p> <p>8 Q. Did you have any understanding as</p> <p>9 to whether he could?</p> <p>10 A. Again, there's multiple sources of</p> <p>11 financial -- the brokers do it -- the</p> <p>12 broker-dealers do it all the time.</p> <p>13 Q. I appreciate that, but specifically</p> <p>14 I am just asking your understanding as to</p> <p>15 whether or not Mr. Figliolo, as an individual</p> <p>16 or through Exitus, did you have an</p> <p>17 understanding as to whether he could provide</p> <p>18 such capital?</p> <p>19 Did you have such an understanding?</p> <p>20 A. I didn't have an understanding. We</p> <p>21 had no agreements or anything in place at</p> <p>22 that time.</p> <p>23 Q. Now, in the application it</p> <p>24 mentioned Mr. Gazdak, Mr. Carlin, and Mr.</p> <p>25 Feinman as people who could potentially make</p>	<p style="text-align: right;">Page 208</p> <p>1 Rocco Guidicipietro</p> <p>2 MR. WARD: I thought you</p> <p>3 were done with the question.</p> <p>4 MR. SCHLICHTMANN: That's</p> <p>5 all right. No problem.</p> <p>6 A. Yes.</p> <p>7 Q. You can answer. He did have the</p> <p>8 capacity?</p> <p>9 A. Yes.</p> <p>10 Q. Mr. Carlin himself?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. And how about Mr. Feinman?</p> <p>13 A. Yes.</p> <p>14 Q. And how about Mr. Gazdak?</p> <p>15 MR. WARD: Objection as to</p> <p>16 vague.</p> <p>17 Q. I want to be very clear. I am</p> <p>18 trying to shorten it a little bit, but I have</p> <p>19 to be complete.</p> <p>20 I am asking your understanding in</p> <p>21 2014, 2015, as to whether or not each of</p> <p>22 these individuals I am going to name, had the</p> <p>23 financial capacity, on their own, to</p> <p>24 underwrite a -- to provide the capital for a</p> <p>25 firm commitment offering up to \$20 million,</p>

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<p style="text-align: right;">Page 209</p> <p>1 Rocco Guidici Pietro</p> <p>2 all right? That's what I am going to be</p> <p>3 asking. And I will be asking the</p> <p>4 individuals, all right? So I don't have to</p> <p>5 keep repeating the question.</p> <p>6 MR. WARD: Just an objection</p> <p>7 as to vague for each of those.</p> <p>8 MR. SCHLICHTMANN: I don't</p> <p>9 want to be vague. Then, I will</p> <p>10 repeat it.</p> <p>11 MR. WARD: No, no, no, it's</p> <p>12 not that you have to repeat it.</p> <p>13 It's vague as to the overall</p> <p>14 question.</p> <p>15 MR. SCHLICHTMANN: Okay,</p> <p>16 well, I will try and --</p> <p>17 MR. WARD: You can use just</p> <p>18 the names, but understand that</p> <p>19 objection as to vague.</p> <p>20 MR. SCHLICHTMANN: Okay, all</p> <p>21 right.</p> <p>22 Q. Did you have an understanding, in</p> <p>23 2014 and 2015, as to whether or not Mr.</p> <p>24 Carlin had the financial capacity to</p> <p>25 contribute capital to guarantee a firm</p>	<p style="text-align: right;">Page 211</p> <p>1 Rocco Guidici Pietro</p> <p>2 Mr. Carlin, Mr. Feinman, and Mr. Gazdak, did</p> <p>3 you have an understanding whether all of you</p> <p>4 together could provide the capital to</p> <p>5 guarantee a firm to provide the capital, so</p> <p>6 that a firm commitment offering up to \$20</p> <p>7 million could occur?</p> <p>8 A. Yes.</p> <p>9 Q. Together you did; that was your</p> <p>10 understanding?</p> <p>11 A. If we needed to, we could.</p> <p>12 Q. Okay. And to your knowledge,</p> <p>13 during 2014 and 2015, was there any agreement</p> <p>14 among yourself, Mr. Amato, Mr. Carlin, Mr.</p> <p>15 Gazdak, and Mr. Feinman, that you would</p> <p>16 contribute to a firm commitment -- that you</p> <p>17 would -- would contribute capital, up to \$20</p> <p>18 million, to -- so that Alexander Capital, LP</p> <p>19 could underwrite a firm commitment offering</p> <p>20 up to \$20 million?</p> <p>21 Was that your understanding during</p> <p>22 that time?</p> <p>23 A. You don't need \$20 million, but</p> <p>24 there was no understanding on a dollar</p> <p>25 amount.</p>
<p style="text-align: right;">Page 210</p> <p>1 Rocco Guidici Pietro</p> <p>2 commitment offering up to \$20 million?</p> <p>3 MR. WARD: Objection.</p> <p>4 Vague.</p> <p>5 Q. Any kind of capital?</p> <p>6 MR. WARD: Same objection.</p> <p>7 A. Part capital, yes.</p> <p>8 Q. He couldn't do all the capital, but</p> <p>9 he could do some of it? Is that what you are</p> <p>10 saying?</p> <p>11 A. I don't know. I don't know his</p> <p>12 complete financial ability.</p> <p>13 Q. Okay. How about for Mr. Feinman --</p> <p>14 same answer?</p> <p>15 A. Same thing. Same answer.</p> <p>16 MR. WARD: Same objection.</p> <p>17 Q. How about Mr. Gazdak?</p> <p>18 A. Same answer.</p> <p>19 Q. All right. I asked you about Mr.</p> <p>20 Gazdak, right?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. Very good. And it's the</p> <p>23 same answer, correct?</p> <p>24 A. Yes.</p> <p>25 Q. Now, between yourself, Mr. Amato,</p>	<p style="text-align: right;">Page 212</p> <p>1 Rocco Guidici Pietro</p> <p>2 Q. Now, when you say, "you don't need</p> <p>3 \$20 million," what do you mean by that?</p> <p>4 A. You don't need \$20 million to write</p> <p>5 a \$20 million dollar IPO.</p> <p>6 Q. Okay. Can you explain why that's</p> <p>7 the case?</p> <p>8 What's your understanding as to why</p> <p>9 that's the case?</p> <p>10 A. It's 30 percent of the 20 million</p> <p>11 is 6 million, minus fees. So you would need</p> <p>12 about \$5 million to do a \$20 million deal.</p> <p>13 And that's if you did it alone. If you</p> <p>14 brought another broker-dealer on, then, you</p> <p>15 would have to only underwrite 10 million. If</p> <p>16 you brought four broker-dealers on, you only</p> <p>17 underwrite 5 million. So there's other ways</p> <p>18 to get the deal done.</p> <p>19 Q. Okay.</p> <p>20 A. You -- we can come up with no</p> <p>21 capital and get the deal done. Even though I</p> <p>22 am not supposed to explain things but --</p> <p>23 Q. I appreciate very much your</p> <p>24 explaining that to us. Okay. Now, I am</p> <p>25 going to show you --</p>

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<p style="text-align: right;">Page 213</p> <p>1 Rocco Guidici Pietro</p> <p>2 MR. WARD: It's been another</p> <p>3 hour. Should we maybe take another</p> <p>4 break?</p> <p>5 MR. SCHLICHTMANN: Yes,</p> <p>6 absolutely.</p> <p>7 MR. WARD: Rocco, five</p> <p>8 minutes?</p> <p>9 MR. SCHLICHTMANN:</p> <p>10 Absolutely.</p> <p>11 THE VIDEOGRAPHER: Off the</p> <p>12 record? Off the record. The time</p> <p>13 is 3:27 p.m.</p> <p>14 (Whereupon, a recess was</p> <p>15 taken at this time.)</p> <p>16 THE VIDEOGRAPHER: Time is</p> <p>17 now -- we are now back on record.</p> <p>18 The time is 3:38.</p> <p>19 BY MR. SCHLICHTMANN:</p> <p>20 Q. I am going to show you a document,</p> <p>21 all right. Share screen. All right. Share.</p> <p>22 All right. Do you see on the screen an</p> <p>23 annual audited report? Do you see that?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. And this is a report for the</p>	<p style="text-align: right;">Page 215</p> <p>1 Rocco Guidici Pietro</p> <p>2 regard to this report," as yourself. Do you</p> <p>3 see that?</p> <p>4 A. Yes, that's -- that's a tax audited</p> <p>5 report, not a focus report.</p> <p>6 Q. Okay. So you had involvement in</p> <p>7 these -- these annual tax audit reports?</p> <p>8 A. No, we had a CPA firm that does</p> <p>9 them, but if there's any problems, they</p> <p>10 contact me because I'm the COO.</p> <p>11 Q. Okay. And -- and it's submitted to</p> <p>12 the United States Securities and Exchange</p> <p>13 Commission, correct?</p> <p>14 A. Yes.</p> <p>15 Q. So it's part of their regulatory</p> <p>16 requirements of your membership in FINRA to</p> <p>17 file these on an annual basis; is that</p> <p>18 correct?</p> <p>19 A. It's an SEC requirement.</p> <p>20 Q. An SEC requirement, yes?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. Now, and this particular</p> <p>23 document, which is Plaintiff's Exhibit 147,</p> <p>24 you were the one who made an oath or</p> <p>25 affirmation concerning it. Do you see that</p>
<p style="text-align: right;">Page 214</p> <p>1 Rocco Guidici Pietro</p> <p>2 period beginning January, 1, 2013 and ending</p> <p>3 in December, 31, 2013. Do you see that?</p> <p>4 A. Yes.</p> <p>5 Q. And the name of the broker-dealer</p> <p>6 is Alexander Capital, LP. Do you see that?</p> <p>7 A. Yes.</p> <p>8 Q. With a principal address of 17</p> <p>9 State Street.</p> <p>10 Now, is this a document that you</p> <p>11 recognize as an annual focus report that was</p> <p>12 filed on behalf of the company?</p> <p>13 A. That's at -- audit financials.</p> <p>14 Annual audited financials.</p> <p>15 Q. Yes. And do you recognize that as</p> <p>16 the type of document you're familiar with of</p> <p>17 being filed on a regular basis by Alexander</p> <p>18 Capital?</p> <p>19 A. No, this is done once a year.</p> <p>20 Q. Okay. As a document that's filed</p> <p>21 once a year, is it familiar to you, by</p> <p>22 looking at it?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. Now, it says here, "name and</p> <p>25 telephone number of person to contact in</p>	<p style="text-align: right;">Page 216</p> <p>1 Rocco Guidici Pietro</p> <p>2 here?</p> <p>3 A. Yes.</p> <p>4 Q. "To the best of your knowledge and</p> <p>5 belief, the accompanying financial statement</p> <p>6 and supporting schedules pertaining to the</p> <p>7 firm of Alexander Capital, LP, as of December</p> <p>8 31, 2013, are true and correct." Do you see</p> <p>9 that?</p> <p>10 A. Yes.</p> <p>11 Q. And that's something you signed.</p> <p>12 You recognize your signature?</p> <p>13 A. Yes.</p> <p>14 Q. All right. And it says what this</p> <p>15 report contains, and it checks various</p> <p>16 things. The "facing page," "statement of</p> <p>17 financial conditions," "statement of income</p> <p>18 loss," "statement of changes in financial</p> <p>19 condition," "statement of changes in</p> <p>20 stockholders equity or partners or sole</p> <p>21 proprietors capital."</p> <p>22 Do you see that?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. "Computation of net</p> <p>25 capital." Do you see that?</p>

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<p style="text-align: right;">Page 217</p> <p>1 Rocco Guidici Pietro</p> <p>2 A. Yes.</p> <p>3 Q. Okay. And in this report, it</p> <p>4 contains a statement of financial condition</p> <p>5 as of December 31, do you see that, 2013?</p> <p>6 A. Yes.</p> <p>7 Q. And it has "notes to financial</p> <p>8 statements."</p> <p>9 Do you see that?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. And it has -- the statement</p> <p>12 of financial condition shows cash on hand in</p> <p>13 December 31, of 2013, of \$20,000. Do you see</p> <p>14 that?</p> <p>15 A. Yes.</p> <p>16 Q. And a receivable from and deposit</p> <p>17 with clearing broker of \$1,205,931; is that</p> <p>18 right?</p> <p>19 A. I see the number.</p> <p>20 Q. My question is: Do you see that</p> <p>21 the cash that it estimates for December 31,</p> <p>22 2013, is \$1,205,931?</p> <p>23 A. Yes.</p> <p>24 Q. And it says that the partners --</p> <p>25 the liabilities are accounts payable of</p>	<p style="text-align: right;">Page 219</p> <p>1 Rocco Guidici Pietro</p> <p>2 Authority, FINRA." And it states that -- it</p> <p>3 says, "The company has a verbal agreement for</p> <p>4 a sublease of office space located at 17</p> <p>5 State Street."</p> <p>6 Do you see that?</p> <p>7 A. Yes.</p> <p>8 Q. "Is on a month-to-month basis with</p> <p>9 Vestus Asset Management, a company controlled</p> <p>10 by one of the partners." Do you see that?</p> <p>11 A. Yes.</p> <p>12 Q. Who is your understanding is --</p> <p>13 which partner, in 2013, controlled Vestus</p> <p>14 Asset Management?</p> <p>15 A. Vestus Asset Management, it wasn't</p> <p>16 a partner at Alexander Capital.</p> <p>17 Q. Go ahead.</p> <p>18 A. Yeah, Vestus was an old company</p> <p>19 that had the lease at 17 State Street.</p> <p>20 Q. Okay. And was one of the partners</p> <p>21 Alexander Capital, LP in any way involved</p> <p>22 with Vestus at that time?</p> <p>23 A. No.</p> <p>24 Q. Okay. It also states under</p> <p>25 "regulatory net capital requirements" -- do</p>
<p style="text-align: right;">Page 218</p> <p>1 Rocco Guidici Pietro</p> <p>2 1,027,779, for a total liabilities of</p> <p>3 \$1,027,779.</p> <p>4 Do you see that?</p> <p>5 A. Yes.</p> <p>6 Q. And partners equity of \$329,537; do</p> <p>7 you see that?</p> <p>8 A. Yes.</p> <p>9 Q. Is that in accordance with your</p> <p>10 understanding of the financial condition of</p> <p>11 Alexander Capital, LP at the end of 2013?</p> <p>12 A. If it's on that report, yes.</p> <p>13 Q. Okay. And then it just -- it makes</p> <p>14 some statements in here. It says, "Alexander</p> <p>15 Capital, LP is a New York Limited partnership</p> <p>16 formed in March 1996." Do you understand</p> <p>17 that that is not true, that, in fact,</p> <p>18 Alexander Capital, LP is a Delaware -- was</p> <p>19 registered as a Delaware limited partnership</p> <p>20 in 1995 or -6?</p> <p>21 Is that your understanding?</p> <p>22 A. That's my understanding now, yes.</p> <p>23 Q. Okay. All right. It says, "It's a</p> <p>24 registered broker-dealer with the SEC, and is</p> <p>25 a member of Financial Industry Regulatory</p>	<p style="text-align: right;">Page 220</p> <p>1 Rocco Guidici Pietro</p> <p>2 you see that?</p> <p>3 A. Yes.</p> <p>4 Q. That "the company is subject to the</p> <p>5 SEC uniform net capital rule." Do you see</p> <p>6 that?</p> <p>7 A. Yes.</p> <p>8 Q. And that "requires the company to</p> <p>9 maintain minimum net capital." Do you see</p> <p>10 that?</p> <p>11 A. Yes.</p> <p>12 Q. And were you familiar with the net</p> <p>13 capital requirements of -- that pertained to</p> <p>14 Alexander Capital, LP?</p> <p>15 A. At that time?</p> <p>16 Q. Yes.</p> <p>17 A. Yes.</p> <p>18 Q. All right. And what was your</p> <p>19 understanding as to why it had to have net</p> <p>20 capital requirements?</p> <p>21 A. It's an SEC and FINRA requirement.</p> <p>22 Q. Did you have an understanding, at</p> <p>23 that time, as to why the SEC would require</p> <p>24 Alexander Capital, LP to have certain levels</p> <p>25 of net capital available?</p>

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<p style="text-align: right;">Page 221</p> <p>1 Rocco Guidici Pietro</p> <p>2 A. It depends on what type of</p> <p>3 broker-dealer it is.</p> <p>4 Q. All right. And when you say, "what</p> <p>5 type," what is that referring to? What types</p> <p>6 are there?</p> <p>7 A. We -- Alexander Capital, LP was a</p> <p>8 \$5,000 broker-dealer.</p> <p>9 Q. Okay. And what's a five -- what</p> <p>10 was your understand of \$5,000 broker-dealer,</p> <p>11 in 2013?</p> <p>12 A. It needed capital of 5,000, plus</p> <p>13 any aggregated debt. So it usually -- it</p> <p>14 needed about 15-, \$20,000.</p> <p>15 Q. All right. And was that -- and as</p> <p>16 a \$5,000 broker-dealer, what was your</p> <p>17 understanding as to the type of underwriting</p> <p>18 activities it could engage in as a \$5,000</p> <p>19 broker-dealer, in 2013?</p> <p>20 A. It could participate in syndicate</p> <p>21 selling group.</p> <p>22 Q. For what types of underwriting?</p> <p>23 A. For most types of underwriting.</p> <p>24 Q. Did that involve firm commitment</p> <p>25 underwriting?</p>	<p style="text-align: right;">Page 223</p> <p>1 Rocco Guidici Pietro</p> <p>2 A. You could not underwrite a firm</p> <p>3 commitment offering.</p> <p>4 Q. Okay, thank you. All right. Now,</p> <p>5 I will stop share. All right. Okay. Now,</p> <p>6 share. Share. Share. All right. I am now</p> <p>7 putting on -- and I did identify that last</p> <p>8 exhibit, correct? Is that right? Yes.</p> <p>9 Thank you.</p> <p>10 And this is now Plaintiff's Exhibit</p> <p>11 148 that's on the screen, and this is the</p> <p>12 same type of report for the year ending --</p> <p>13 from January 1, 2014, to 12/31/2014. Do you</p> <p>14 see that?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. And it's -- it says, "the</p> <p>17 name and telephone number of the contact</p> <p>18 person regarding this report" is yourself.</p> <p>19 Do you see that?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. And again it has an oath or</p> <p>22 affirmation -- oath or affirmation by</p> <p>23 yourself, that "the company financial</p> <p>24 statement and supporting schedules pertaining</p> <p>25 to the firm of Alexander Capital, LP, as of</p>
<p style="text-align: right;">Page 222</p> <p>1 Rocco Guidici Pietro</p> <p>2 A. At a \$5,000 BD, you couldn't</p> <p>3 underwrite, you could participate.</p> <p>4 Q. And how could you participate?</p> <p>5 A. You would get stock from -- another</p> <p>6 broker-dealer would be the lead underwriter</p> <p>7 and then you would participate.</p> <p>8 Q. Participate in what way? What</p> <p>9 would be -- what was your understanding of</p> <p>10 the type of participation you could have in</p> <p>11 such an underwriting?</p> <p>12 A. You can, you know, buy stock and</p> <p>13 sell it to customers.</p> <p>14 Q. Could you be part of the -- could</p> <p>15 you be an underwriter that could underwrite</p> <p>16 the firm commitment offering?</p> <p>17 Was it your understanding that you</p> <p>18 could or couldn't?</p> <p>19 A. You couldn't underwrite.</p> <p>20 Q. I'm sorry?</p> <p>21 A. You could not underwrite.</p> <p>22 Q. A firm commitment offering?</p> <p>23 A. Right.</p> <p>24 Q. Is that correct? I am just making</p> <p>25 clear I understand the answer. Is that --</p>	<p style="text-align: right;">Page 224</p> <p>1 Rocco Guidici Pietro</p> <p>2 December 31, 2014, are true and correct." Do</p> <p>3 you see that?</p> <p>4 A. Yes.</p> <p>5 Q. And you recognize your signature on</p> <p>6 this document?</p> <p>7 A. Yes.</p> <p>8 Q. And this one says that it has -- in</p> <p>9 2014, it has a "statement of financial</p> <p>10 conditions," "statement of income loss,"</p> <p>11 "statement of cash flows," "statement of</p> <p>12 changes in stockholders equity or partners</p> <p>13 sole proprietors capital," "computation of</p> <p>14 net capital," "computation for determination</p> <p>15 of reserve requirements pursuant to a rule."</p> <p>16 Do you see all of that?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. And -- and this report, it</p> <p>19 states, "As of the end of 2014, the cash on</p> <p>20 hand was \$45,142. Do you see that?</p> <p>21 A. Yes.</p> <p>22 Q. The receivable from and deposit</p> <p>23 with clearing broker is listed as \$487,200,</p> <p>24 right?</p> <p>25 Do you see that?</p>

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<p style="text-align: right;">Page 225</p> <p>1 Rocco Guidici Pietro</p> <p>2 A. Yes.</p> <p>3 Q. It says the total assets as of that</p> <p>4 time was \$675,361. Do you see that?</p> <p>5 A. Yes.</p> <p>6 Q. It then talks about accounts</p> <p>7 payable of \$458,572. Do you see that?</p> <p>8 A. Yes.</p> <p>9 Q. And total liabilities of \$458,572.</p> <p>10 Do you see that?</p> <p>11 A. Yes.</p> <p>12 Q. Members equity of \$216,789. Do you</p> <p>13 see that?</p> <p>14 A. Yes.</p> <p>15 Q. And is that your understanding,</p> <p>16 that fairly and accurately depicts the</p> <p>17 condition of the Alexander Capital, LP at the</p> <p>18 end of 2014?</p> <p>19 A. Yes.</p> <p>20 Q. And in this document, this 2014</p> <p>21 filing, it states, "The company has a verbal</p> <p>22 agreement for the sublease of office space</p> <p>23 located at 17 State Street, which is on a</p> <p>24 month-to-month basis with Nesa Management,</p> <p>25 LLC, a company controlled by one of the</p>	<p style="text-align: right;">Page 227</p> <p>1 Rocco Guidici Pietro</p> <p>2 Nesa and we were operational officers of the</p> <p>3 firm.</p> <p>4 Q. Okay. And Nesa Management was the</p> <p>5 lessor to Alexander Capital, LP, in 2014?</p> <p>6 A. Yes.</p> <p>7 Q. And Nesa Management also had a</p> <p>8 partnership interest in Alexander Capital, LP</p> <p>9 at that time, correct?</p> <p>10 A. At that time, yes, I believe so.</p> <p>11 Q. And that's the 24.9 percent we</p> <p>12 previously discussed; is that correct?</p> <p>13 A. Yes.</p> <p>14 Q. And the other 75.1 percent was</p> <p>15 owned through -- by Mr. Figliolo, through</p> <p>16 Exitus, LLC; is that your understanding as of</p> <p>17 that time?</p> <p>18 A. Yes.</p> <p>19 Q. Now it says, "controlled by one of</p> <p>20 the partners," right, a company -- that Nesa</p> <p>21 is controlled by one of the partners. Do you</p> <p>22 see that?</p> <p>23 A. Yes.</p> <p>24 Q. Now, who's that referring to?</p> <p>25 What was your understanding of who</p>
<p style="text-align: right;">Page 226</p> <p>1 Rocco Guidici Pietro</p> <p>2 partners." Do you see that?</p> <p>3 A. Yes.</p> <p>4 Q. And it says, "The sublease provides</p> <p>5 for payment of, approximately, \$60,000 a</p> <p>6 month."</p> <p>7 Do you see that?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. Now, was it your</p> <p>10 understanding that in 2014, that there was a</p> <p>11 change in the company that was providing the</p> <p>12 lease, leasing the space to Alexander</p> <p>13 Capital, LP?</p> <p>14 A. Yes.</p> <p>15 Q. And Nesa Management, as of 2014,</p> <p>16 became the lessor of that space at 17 State</p> <p>17 Street, 5th Floor, in New York, New York?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. And that is -- that this</p> <p>20 occurred after you and Mr. Amato, through</p> <p>21 Nesa, became the controlling -- the</p> <p>22 controlling partners of Alexander Capital, as</p> <p>23 of December 23rd, 2014; is that correct?</p> <p>24 A. No, we weren't controlling</p> <p>25 partners. We were indirect owners through</p>	<p style="text-align: right;">Page 228</p> <p>1 Rocco Guidici Pietro</p> <p>2 was one of the partners of Nesa Management</p> <p>3 that controlled Nesa Management?</p> <p>4 MR. WARD: Objection.</p> <p>5 Calls for speculation.</p> <p>6 Q. Let me say it -- bad question.</p> <p>7 What was your understanding of who</p> <p>8 was referred to here as one of the partners</p> <p>9 of Alexander Capital, LP, who controlled Nesa</p> <p>10 Management, LLC? Who is that referring to?</p> <p>11 What's your understanding?</p> <p>12 A. It's referring -- it's a</p> <p>13 misstatement, and it's referring to Joe or I</p> <p>14 as Nesa's partners. We're not partners in</p> <p>15 Alexander Capital, LP.</p> <p>16 Q. Okay. Nesa Management, LLC, was a</p> <p>17 partner, correct?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. But the statement in this</p> <p>20 document says, "Nesa Management, a company</p> <p>21 controlled by one of the partners." So, is</p> <p>22 it your understanding that that was a --</p> <p>23 well --</p> <p>24 A. That's incorrect. The way they</p> <p>25 wrote it, it's incorrect.</p>

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<p style="text-align: right;">Page 229</p> <p>1 Rocco Guidici Pietro</p> <p>2 Q. It's incorrect, the way it's</p> <p>3 written, because it suggests that either you</p> <p>4 or Mr. Amato were partners in Alexander</p> <p>5 Capital, LP; is that what you are saying?</p> <p>6 That's why it's incorrect?</p> <p>7 MR. WARD: Objection.</p> <p>8 Objection. Calls for speculation.</p> <p>9 Q. I just want to understand why you</p> <p>10 say the statement is incorrect, that the</p> <p>11 reference to one of the partners of the</p> <p>12 Alexander Capital, LP controlling Nesa</p> <p>13 Management was incorrect.</p> <p>14 A. It should be Nesa is the partner,</p> <p>15 not one of the partners.</p> <p>16 Q. Not either you or Mr. Amato as</p> <p>17 being a partner of Alexander Capital, LP; is</p> <p>18 that what you are saying?</p> <p>19 A. Yes, correct.</p> <p>20 Q. Okay. Is it true that you and Mr.</p> <p>21 Amato were -- managed the -- had the ultimate</p> <p>22 management control of Alexander Capital, LP,</p> <p>23 in 2014; is that correct?</p> <p>24 A. In 2014, yes, beginning.</p> <p>25 Q. Okay. So as of July 2014, is it</p>	<p style="text-align: right;">Page 231</p> <p>1 Rocco Guidici Pietro</p> <p>2 that's correct.</p> <p>3 Q. Okay. It says, "Regulatory net</p> <p>4 capital requirements." It, again, repeats</p> <p>5 that there's a requirement to have net</p> <p>6 capital, and as of December 31, 2014, the</p> <p>7 company had regulatory net capital of</p> <p>8 \$73,770, which exceeded its minimum</p> <p>9 requirement of \$30,571. Do you see that?</p> <p>10 A. Yes.</p> <p>11 Q. What was your understanding of the</p> <p>12 net capital requirements for Alexander</p> <p>13 Capital, LP, in 2014?</p> <p>14 A. It was a nickel BD.</p> <p>15 Q. It was, I'm sorry?</p> <p>16 A. \$5,000 BD.</p> <p>17 Q. Same as what was the case in 2013?</p> <p>18 A. Correct.</p> <p>19 Q. And your answers to my questions</p> <p>20 regarding the net capital requirements and</p> <p>21 activities it can engage in are the same for</p> <p>22 2014, as you said for 2013?</p> <p>23 A. Yes.</p> <p>24 Q. All right. Mr. Guidici Pietro, can</p> <p>25 you see on the screen another report, this</p>
<p style="text-align: right;">Page 230</p> <p>1 Rocco Guidici Pietro</p> <p>2 fair to say that you and Mr. Amato exercised</p> <p>3 ultimate management control over the</p> <p>4 Alexander Capital, LP, as of that time? Is</p> <p>5 that fair?</p> <p>6 A. No, that's not correct.</p> <p>7 Q. What is incorrect about that?</p> <p>8 A. After we took over operational</p> <p>9 control, we hired people. We hired</p> <p>10 compliance CFOs. We hired -- those people 11</p> <p>11 had control over management.</p> <p>12 Q. Yes, but I am saying, ultimate</p> <p>13 control. The highest level of control was</p> <p>14 exercised by you and Mr. Amato as of that</p> <p>15 time; is that right?</p> <p>16 There was no one above you</p> <p>17 exercising control; is that correct?</p> <p>18 A. Chief compliance officer has</p> <p>19 managerial control.</p> <p>20 Q. Right, but regarding you and Mr.</p> <p>21 Amato, you and Mr. Amato were -- there was no</p> <p>22 one above either you or Mr. Amato who</p> <p>23 exercised management control over Alexander</p> <p>24 Capital, LP, in 2014; is that correct?</p> <p>25 A. There was nobody on top of us,</p>	<p style="text-align: right;">Page 232</p> <p>1 Rocco Guidici Pietro</p> <p>2 one for the period January 1, 2015 to</p> <p>3 December 31st, 2015?</p> <p>4 A. Yes.</p> <p>5 Q. And this has previously been marked</p> <p>6 as Plaintiff's Exhibit 149. Now, this is</p> <p>7 similar to the report for 2013 and 2014 that</p> <p>8 we went over, similar type of report?</p> <p>9 A. Yes.</p> <p>10 Q. Again, it says that "the name of</p> <p>11 the person you should contact regarding the</p> <p>12 report" is yourself, correct?</p> <p>13 A. Yes.</p> <p>14 Q. And it has an oath or affirmation,</p> <p>15 as you had previously given in 2013 and 2014;</p> <p>16 is that correct?</p> <p>17 A. Yes.</p> <p>18 Q. And that's your signature, you</p> <p>19 recognize, on that oath or affirmation?</p> <p>20 A. Yes.</p> <p>21 Q. And this one says, "The report</p> <p>22 contains facing page, and statement of</p> <p>23 financial condition." Do you see that?</p> <p>24 A. Yes.</p> <p>25 Q. And "an oath or affirmation." Do</p>

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<p style="text-align: right;">Page 233</p> <p>1 Rocco Guidici Pietro</p> <p>2 you see that?</p> <p>3 A. Yes.</p> <p>4 Q. But none of the other things that</p> <p>5 we went over for 2013 and 2014 is checked, as</p> <p>6 this report containing, such as it's not</p> <p>7 checked that it contains statement of</p> <p>8 operations, statement of cash flows,</p> <p>9 statement of changes in stockholders equity,</p> <p>10 statement of changes in liabilities,</p> <p>11 computation of net capital, computation for</p> <p>12 determination of reserve requirements. None</p> <p>13 of those things are checked; is that correct?</p> <p>14 A. I don't see them checked, no.</p> <p>15 Q. Okay. And this report has three</p> <p>16 pages.</p> <p>17 Do you see that?</p> <p>18 A. Yes.</p> <p>19 Q. It's got a facing page, an</p> <p>20 affirmation, and a statement of financial</p> <p>21 condition, as of December 31, 2015. Do you</p> <p>22 see that?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. And at the end of December</p> <p>25 31, 2015, it states, "cash, 42,695." Do you</p>	<p style="text-align: right;">Page 235</p> <p>1 Rocco Guidici Pietro</p> <p>2 A. They should have everything. It</p> <p>3 should have everything like the previous</p> <p>4 ones.</p> <p>5 Q. Okay. But you can see that not --</p> <p>6 the -- none of the boxes -- there's no X next</p> <p>7 to all of the things that the other ones we</p> <p>8 went over had, but here, there's no X</p> <p>9 compared to those. There's just a statement</p> <p>10 of financing condition at the end of the</p> <p>11 year. Do you see that?</p> <p>12 A. Yes.</p> <p>13 Q. Do you have any understanding as to</p> <p>14 why that was the case for this filing at the</p> <p>15 end of 2015; that it didn't contain the other</p> <p>16 types of information we went over for 2013</p> <p>17 and 2014?</p> <p>18 A. I do not.</p> <p>19 Q. Any understanding as to why it</p> <p>20 doesn't have any statement about the net</p> <p>21 capital requirements and whether the firm met</p> <p>22 them or not?</p> <p>23 A. I don't believe this is the full</p> <p>24 report.</p> <p>25 Q. All right. But you see it's not --</p>
<p style="text-align: right;">Page 234</p> <p>1 Rocco Guidici Pietro</p> <p>2 see that?</p> <p>3 A. Yes.</p> <p>4 Q. "Receivable from and deposit with</p> <p>5 clearing broker, \$434,736." Do you see that?</p> <p>6 A. Yes.</p> <p>7 Q. For "total assets, as of December</p> <p>8 31, 2015, of \$621,573." Do you see that?</p> <p>9 A. Yes.</p> <p>10 Q. It shows, "accounts payable,</p> <p>11 \$429,791, for total liabilities of \$429,791."</p> <p>12 Do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. It has "members equity at</p> <p>15 \$191,782."</p> <p>16 Do you see that?</p> <p>17 A. Yes.</p> <p>18 Q. Now, that's the end of the report.</p> <p>19 There are no statements, as we had previously</p> <p>20 gone over, no statement about net capital</p> <p>21 requirements at all attached to this report.</p> <p>22 Now, do you have any understanding -- is it</p> <p>23 consistent with your understanding that in</p> <p>24 2015, that the annual report filed did not</p> <p>25 contain those things?</p>	<p style="text-align: right;">Page 236</p> <p>1 Rocco Guidici Pietro</p> <p>2 the computation of net capital is not</p> <p>3 checked. There's no X there; is that right?</p> <p>4 A. Yes, but that would not be what we</p> <p>5 filed with the SEC, those three pages.</p> <p>6 Q. Okay. But this report, Exhibit</p> <p>7 149, indicates on its own terms that all it</p> <p>8 contains is a statement of financial</p> <p>9 condition and doesn't contain a statement of</p> <p>10 a computation of net capital. Do you see</p> <p>11 that?</p> <p>12 A. Yes.</p> <p>13 Q. So is that not an indication that</p> <p>14 the report is stating that it did not include</p> <p>15 a computation of net capital?</p> <p>16 A. I don't know. The accountants made</p> <p>17 the report, so I don't --</p> <p>18 Q. Do you have any memory that in</p> <p>19 2015, that the report that was filed, unlike</p> <p>20 2013 and 2014, did not contain things that</p> <p>21 the 2013 and 2014 report contained, including</p> <p>22 computation of net capital?</p> <p>23 A. I do not.</p> <p>24 Q. You do not have --</p> <p>25 A. Any knowledge of why it is not the</p>

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<p style="text-align: right;">Page 237</p> <p>1 Rocco Guidici Pietro</p> <p>2 same.</p> <p>3 Q. Okay. Should it have -- with your</p> <p>4 understanding of the practices and procedures</p> <p>5 of Alexander Capital, LP, should it have</p> <p>6 contained the things that we discussed</p> <p>7 previously that were in the 2013 and 2014</p> <p>8 report, including the computation of net</p> <p>9 capital?</p> <p>10 A. It's a certified public accountant,</p> <p>11 and he is registered with the SEC, so he</p> <p>12 files whatever he needed to file. I am not a</p> <p>13 certified public accountant. I don't know.</p> <p>14 Q. Based on your review of the 2013</p> <p>15 and '14 report that did have those things,</p> <p>16 and your understanding of the practices and</p> <p>17 procedures of Alexander Capital, should the</p> <p>18 report, to your knowledge, based on the</p> <p>19 practices and procedures of Alexander</p> <p>20 Capital, and based on your review of the 2013</p> <p>21 and 2014 reports, should it have included</p> <p>22 those things we discussed previously that</p> <p>23 were in those two other reports, including</p> <p>24 the computation of net capital, or you have</p> <p>25 no understanding as to whether the practices</p>	<p style="text-align: right;">Page 239</p> <p>1 Rocco Guidici Pietro</p> <p>2 that Alexander Capital, as an underwriter or</p> <p>3 intended to be an underwriter of a company's</p> <p>4 offering, had any -- did you have any</p> <p>5 understanding that Alexander Capital, as such</p> <p>6 intended underwriter, had an obligation or</p> <p>7 requirement under the rules or regulations of</p> <p>8 FINRA, regarding any disclosures that are</p> <p>9 made in a registration statement in which it</p> <p>10 was the intended underwriter?</p> <p>11 A. I do not. It's not my area.</p> <p>12 Q. And as you sit here today, are you</p> <p>13 aware as to whether or not Alexander Capital,</p> <p>14 as an intended underwriter of an offering,</p> <p>15 had an obligation under the rules and</p> <p>16 regulations of FINRA, to -- regarding</p> <p>17 disclosures, and any such registration</p> <p>18 statement?</p> <p>19 A. I am not aware of any.</p> <p>20 Q. All right. I am going to show you,</p> <p>21 again, and hopefully on the screen you see a</p> <p>22 continuing member application that we went</p> <p>23 over previously that was filed on June 3,</p> <p>24 2015.</p> <p>25 Do you see that?</p>
<p style="text-align: right;">Page 238</p> <p>1 Rocco Guidici Pietro</p> <p>2 and procedures of Alexander Capital, LP,</p> <p>3 required such inclusion of such information?</p> <p>4 A. It's SEC requirements, not the</p> <p>5 requirements of Alexander Capital, and I</p> <p>6 don't know. Whatever needed to be filed,</p> <p>7 would be filed.</p> <p>8 Q. Was it your understanding, in 2015,</p> <p>9 that Alexander Capital, LP had an obligation</p> <p>10 to file with the SEC a statement of --</p> <p>11 concerning the computation of net capital for</p> <p>12 2015, or you don't know?</p> <p>13 A. I don't know what the requirements</p> <p>14 are, but I am sure we met them or else we</p> <p>15 wouldn't know.</p> <p>16 Q. And so just to -- in summary, you</p> <p>17 don't have an explanation as to why this</p> <p>18 document that was filed at the end of 2015</p> <p>19 with the SEC did not contain the things we</p> <p>20 discussed previously that were contained in</p> <p>21 the 2013 and 2014 reports, including a</p> <p>22 computation of net capital; is that correct?</p> <p>23 A. That's correct.</p> <p>24 Q. Mr. Guidici Pietro, are you aware --</p> <p>25 were you aware of the fact, in 2014 and 2015,</p>	<p style="text-align: right;">Page 240</p> <p>1 Rocco Guidici Pietro</p> <p>2 A. Yes.</p> <p>3 Q. Okay. And I am going to go to -- I</p> <p>4 am going to go to page 13 of the report, and</p> <p>5 it states in the question from FINRA,</p> <p>6 "Provide a written narrative describing the</p> <p>7 scope of activities to be conducted, as well</p> <p>8 as describing each step of a typical</p> <p>9 transaction to be conducted by the applicant,</p> <p>10 beginning with any initial customer contact."</p> <p>11 Do you see that?</p> <p>12 A. Yes.</p> <p>13 Q. All right. Now, in the narrative</p> <p>14 that follows, the firm -- Alexander Capital</p> <p>15 makes this following statement: "The firm,</p> <p>16 referring to Alexander Capital, LP, and its</p> <p>17 counsel will undertake vigorous due diligence</p> <p>18 to verify the accuracy of information</p> <p>19 contained in all registration statements in</p> <p>20 which it participates," and I will highlight</p> <p>21 that in yellow, all right, that statement I</p> <p>22 just read.</p> <p>23 Do you see that there?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. Was it your understanding,</p>

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<p style="text-align: right;">Page 241</p> <p>1 Rocco Guidici Pietro</p> <p>2 in 2014 and 2015, that Alexander Capital and</p> <p>3 its counsel had any kind of obligation or</p> <p>4 responsibility to conduct due diligence to</p> <p>5 verify the accuracy of information contained</p> <p>6 in any registration statement in which it was</p> <p>7 the intended underwriter?</p> <p>8 A. No, I do not.</p> <p>9 Q. Do you know that now?</p> <p>10 A. Well, on our side, we need to</p> <p>11 verify the accuracy of the company's</p> <p>12 information. That's what I know now.</p> <p>13 Q. Okay. And is it also your</p> <p>14 understanding now that any disclosure</p> <p>15 statements made in the registration</p> <p>16 statement, that it was the responsibility of</p> <p>17 Alexander Capital, LP and its counsel, to</p> <p>18 conduct due diligence to verify the accuracy</p> <p>19 of information contained in the registration</p> <p>20 statement in which it was the intended</p> <p>21 underwriter?</p> <p>22 A. The counsel wrote the statement, so</p> <p>23 I don't know.</p> <p>24 Q. Is that consistent with your</p> <p>25 understanding now?</p>	<p style="text-align: right;">Page 243</p> <p>1 Rocco Guidici Pietro</p> <p>2 have, in 2014 and 2015, conducted due</p> <p>3 diligence to verify the accuracy of</p> <p>4 information contained in any registration</p> <p>5 statements in which it participated in 2014</p> <p>6 and 2015?</p> <p>7 MR. WARD: Objection; vague.</p> <p>8 Q. Do you understand the question?</p> <p>9 A. I do. I think I answered it. I</p> <p>10 said we try to verify everything as much as</p> <p>11 we can.</p> <p>12 Q. Right. I just want to make sure I</p> <p>13 understand correctly that it's your testimony</p> <p>14 that in 2014 and 2015, you understood that it</p> <p>15 was best practices for Alexander Capital, LP</p> <p>16 to conduct due diligence, during that period</p> <p>17 of time, to verify the accuracy of</p> <p>18 information contained in any registration</p> <p>19 statements during that period of time in</p> <p>20 which it was participating; is that correct?</p> <p>21 A. Yes, and our counsel also.</p> <p>22 Q. Yeah, firm and its counsel, both,</p> <p>23 had the same requirement, in accordance with</p> <p>24 best practices, as you understood it in 2014</p> <p>25 and 2015; is that correct?</p>
<p style="text-align: right;">Page 242</p> <p>1 Rocco Guidici Pietro</p> <p>2 MR. WARD: Objection; vague.</p> <p>3 Q. All right. Do you have an</p> <p>4 understanding now as to whether Alexander</p> <p>5 Capital had -- has any obligation, as a</p> <p>6 member of FINRA, to verify the accuracy of</p> <p>7 information contained in any registration</p> <p>8 statement in which it participated, Alexander</p> <p>9 Capital, LP participated?</p> <p>10 A. We do our best to verify all the</p> <p>11 information.</p> <p>12 Q. Do you understand that Alexander</p> <p>13 Capital has a requirement, as part of its</p> <p>14 membership in FINRA, to do that?</p> <p>15 A. I don't know of any requirement</p> <p>16 from FINRA to do that.</p> <p>17 Q. And you didn't know of any such</p> <p>18 requirement in 2014 and 2015?</p> <p>19 A. No. We do best business practices</p> <p>20 and we do the best we can.</p> <p>21 Q. All right. Are you saying that in</p> <p>22 accordance with -- that it was your</p> <p>23 understanding in 2014 and 2015, that in</p> <p>24 accordance with best business practices, that</p> <p>25 Alexander Capital and its counsel should</p>	<p style="text-align: right;">Page 244</p> <p>1 Rocco Guidici Pietro</p> <p>2 MR. WARD: Objection; vague.</p> <p>3 Q. Is that correct? You can answer.</p> <p>4 A. Yes, all the time.</p> <p>5 Q. All right. I am getting to the end</p> <p>6 here, and will soon be there, so I appreciate</p> <p>7 your patience.</p> <p>8 Mr. Guidici Pietro, did you have an</p> <p>9 understanding, in 2015, as to whether or not</p> <p>10 Alterix, Inc., also known as, Inpellis Inc.,</p> <p>11 filed registration statements with the SEC on</p> <p>12 a private confidential basis?</p> <p>13 Did you have that understanding?</p> <p>14 Were you aware of it during that time?</p> <p>15 A. No, I was not.</p> <p>16 Q. Were you aware, during 2015, that</p> <p>17 Alexander -- excuse me -- that Alterix Inc.,</p> <p>18 also known as, Inpellis Inc., publicly filed</p> <p>19 a registration statement known as an "S-1,"</p> <p>20 publicly filed it in November of 2015? Did</p> <p>21 you become aware of that at any time in 2015?</p> <p>22 A. No, I did not.</p> <p>23 Q. Did it ever come to your attention,</p> <p>24 in 2015, that Alexander -- that -- well, let</p> <p>25 me ask you this: You were aware, in 2015, or</p>

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<p style="text-align: right;">Page 245</p> <p>1 Rocco Guidici Pietro</p> <p>2 you were not aware that Alexander Capital, LP</p> <p>3 was intended to be an underwriter in an</p> <p>4 offering on behalf of -- on behalf of</p> <p>5 Alterix, Inc., also known as, Inpellis Inc.?</p> <p>6 You were aware of that or you were not?</p> <p>7 A. I don't remember, exactly, when I</p> <p>8 was made aware of it, but I was aware of it</p> <p>9 at some point in '15.</p> <p>10 Q. All right. Do you remember what --</p> <p>11 the circumstances under which you became</p> <p>12 aware of it?</p> <p>13 A. I do not.</p> <p>14 Q. Do you know if it was before there</p> <p>15 was any public filing of the Alterix/Inpellis</p> <p>16 registration statement, or after there was a</p> <p>17 public filing?</p> <p>18 A. I do not.</p> <p>19 Q. Are you aware of the fact that</p> <p>20 FINRA conducted an investigation about the</p> <p>21 publicly filed S-1 that was filed on behalf</p> <p>22 of Alexander -- Alterix, Inc., also known as,</p> <p>23 Inpellis Inc.?</p> <p>24 Are you aware that FINRA conducted</p> <p>25 an investigation of that S-1 public filing?</p>	<p style="text-align: right;">Page 247</p> <p>1 Rocco Guidici Pietro</p> <p>2 A. I don't remember how long after or</p> <p>3 when it started and when I knew.</p> <p>4 Q. But you do remember becoming aware</p> <p>5 of the stop order and the SEC investigation?</p> <p>6 A. Yes.</p> <p>7 Q. And during the time that you were</p> <p>8 at Alexander Capital, LP, had you ever</p> <p>9 experienced the SEC issuing a stop order</p> <p>10 regarding any offering that Alexander Capital</p> <p>11 was involved with?</p> <p>12 A. No, not that I recall.</p> <p>13 Q. During the time that you were with</p> <p>14 Alexander Capital as a chief operating</p> <p>15 officer, up through the issuance of the SEC</p> <p>16 stop order and investigation, were you ever</p> <p>17 aware of Alexander Capital being the subject</p> <p>18 of an SEC -- excuse me -- of an offering in</p> <p>19 which Alexander Capital was the intended</p> <p>20 underwriter, being the subject of an SEC</p> <p>21 investigation concerning a registration</p> <p>22 statement filing on behalf of the issuer</p> <p>23 company?</p> <p>24 A. Not that I'm aware of.</p> <p>25 Q. Is it fair to say that the stop</p>
<p style="text-align: right;">Page 246</p> <p>1 Rocco Guidici Pietro</p> <p>2 A. An inquiry, not an investigation,</p> <p>3 yes, I was aware.</p> <p>4 Q. Okay. And you became aware of</p> <p>5 that -- it's your best memory you became</p> <p>6 aware of that after the public filing?</p> <p>7 A. I don't know when that happened,</p> <p>8 before or after the filing.</p> <p>9 Q. Okay. And are you aware of the</p> <p>10 fact -- did you become aware of the fact that</p> <p>11 -- after the public filing of the Alterix,</p> <p>12 also known as, Inpellis offering was filed,</p> <p>13 publicly filed, that the SEC issued a stop</p> <p>14 order regarding the offering, and undertook</p> <p>15 an investigation regarding the public filing</p> <p>16 of that S-1? Are you aware of that?</p> <p>17 A. Yes, I am aware of that.</p> <p>18 Q. Were you aware of that in 2015?</p> <p>19 A. After it happened, yes.</p> <p>20 Q. And were you made aware of it soon</p> <p>21 after?</p> <p>22 Is it your understanding you were</p> <p>23 made aware of it soon after the SEC issued</p> <p>24 its stop order and conducted -- undertook its</p> <p>25 investigation?</p>	<p style="text-align: right;">Page 248</p> <p>1 Rocco Guidici Pietro</p> <p>2 order and investigation that the SEC</p> <p>3 undertook after the filing of the Alterix</p> <p>4 Inc., also knows as, Inpellis, Inc., public</p> <p>5 filing, that that was an unusual event, to</p> <p>6 you?</p> <p>7 A. To me personally, yes.</p> <p>8 Q. All right. Are you aware of the</p> <p>9 fact -- did you become aware of the fact that</p> <p>10 after the SEC conducted the stop order and</p> <p>11 the investigation, that it issued a subpoena</p> <p>12 to various parties?</p> <p>13 Were you aware of that?</p> <p>14 A. Not that I remember.</p> <p>15 Q. Were you aware of the fact that one</p> <p>16 of the parties that was issued a request for</p> <p>17 information regarding the public filing of</p> <p>18 the Alterix, also known as, Inpellis</p> <p>19 offering, was Alexander Capital, LP?</p> <p>20 A. I do remember that we got asked for</p> <p>21 information.</p> <p>22 Q. And based on your experience with</p> <p>23 the company, was that the first time that</p> <p>24 Alexander Capital, during the time that you</p> <p>25 were chief operating officer, had ever</p>

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<p style="text-align: right;">Page 249</p> <p>1 Rocco Guidici Pietro</p> <p>2 received a request for information by the SEC</p> <p>3 regarding an offering in which Alexander</p> <p>4 Capital was the intended underwriter?</p> <p>5 A. We get them pretty often. They</p> <p>6 always request information.</p> <p>7 Q. How about an SEC investigation</p> <p>8 pursuant to a stop order, were there any such</p> <p>9 stop order investigations that you were aware</p> <p>10 of, prior to this one, regarding the</p> <p>11 Alterix/Inpellis filing?</p> <p>12 A. Not stop orders.</p> <p>13 Q. Okay. And stop orders followed by</p> <p>14 an SEC investigation, were you ware of any</p> <p>15 such thing occurring, prior to the -- this</p> <p>16 stop order and the investigation that</p> <p>17 followed?</p> <p>18 A. No.</p> <p>19 Q. Okay.</p> <p>20 A. No.</p> <p>21 Q. Based on your understanding of the</p> <p>22 industry, and how the industry looks at such</p> <p>23 things, would you consider the fact that a</p> <p>24 stop order and an investigation by the SEC</p> <p>25 regarding the public filing of a company's</p>	<p style="text-align: right;">Page 251</p> <p>1 Rocco Guidici Pietro</p> <p>2 information, nobody would go near it.</p> <p>3 Q. And if the company made material</p> <p>4 omissions in its disclosure statements,</p> <p>5 omissions that the SEC considered to be</p> <p>6 material, is your answer the same for how the</p> <p>7 industry would look at that company -- how</p> <p>8 the marketplace would look at that company?</p> <p>9 A. Yes.</p> <p>10 Q. And is your testimony the same,</p> <p>11 that they would not want to go near it?</p> <p>12 MR. WARD: Objection; calls</p> <p>13 for speculation.</p> <p>14 A. They would go to other companies to</p> <p>15 do business.</p> <p>16 Q. There would be other companies</p> <p>17 they'd rather do business with, than that</p> <p>18 company that had such a problem regarding</p> <p>19 material omissions in its disclosure</p> <p>20 statement; is that what you are saying?</p> <p>21 MR. WARD: Objection; calls</p> <p>22 for speculation.</p> <p>23 Q. I'm sorry?</p> <p>24 MR. WARD: Objection; calls</p> <p>25 for speculation.</p>
<p style="text-align: right;">Page 250</p> <p>1 Rocco Guidici Pietro</p> <p>2 S-1 was a -- was something that the industry</p> <p>3 considered to be a very serious matter?</p> <p>4 A. Yes.</p> <p>5 Q. And was it your understanding that</p> <p>6 if a company, which had filed a -- publicly</p> <p>7 filed an S-1 receives a stop order by the SEC</p> <p>8 followed by an investigation, that your</p> <p>9 understanding in the industry that that would</p> <p>10 -- that that company would be tainted in the</p> <p>11 marketplace in some way?</p> <p>12 A. Depends the reason on the</p> <p>13 investigation.</p> <p>14 Q. If the investigation was concerning</p> <p>15 the concern by the SEC that the disclosures</p> <p>16 in the statement were fraudulent, would that</p> <p>17 be, in your -- with your understanding of the</p> <p>18 industry at that time, be considered to be</p> <p>19 something that would taint the issuing</p> <p>20 company?</p> <p>21 A. If the company made fraudulent</p> <p>22 statements, yes.</p> <p>23 Q. Why would it taint the company in</p> <p>24 the marketplace?</p> <p>25 A. If the company was giving false</p>	<p style="text-align: right;">Page 252</p> <p>1 Rocco Guidici Pietro</p> <p>2 MR. SCHLICHTMANN: No, I</p> <p>3 appreciate that.</p> <p>4 Q. The answer, you have to be audible.</p> <p>5 I'm sorry, I don't think I heard the answer.</p> <p>6 A. I didn't give an answer.</p> <p>7 Q. Okay, all right.</p> <p>8 A. If a company, in generalization,</p> <p>9 had issues with the SEC, yes, wouldn't go</p> <p>10 near the company.</p> <p>11 Q. And specifically as to material</p> <p>12 omissions in the registration statement that</p> <p>13 was filed publicly, that the SEC considered</p> <p>14 to be material omissions, is your answer the</p> <p>15 same, that the marketplace would not want to</p> <p>16 go near that company because there are other</p> <p>17 companies they could deal with that don't</p> <p>18 have such problems?</p> <p>19 A. I would need to read the SEC</p> <p>20 investigation complaint before I make that</p> <p>21 decision.</p> <p>22 Q. All right, but you did say that if</p> <p>23 there were material omissions on a</p> <p>24 registration, publicly filed registration</p> <p>25 statement, that the SEC considered material</p>

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<p style="text-align: right;">Page 253</p> <p>1 Rocco Guidici Pietro</p> <p>2 omissions, that would taint the company in</p> <p>3 the marketplace; is that your --</p> <p>4 MR. WARD: Objection;</p> <p>5 speculation.</p> <p>6 Q. Is your testimony changing in any</p> <p>7 way or do you adhere to the same testimony</p> <p>8 that you previously gave, that it would taint</p> <p>9 the company in the marketplace?</p> <p>10 A. If the company --</p> <p>11 MR. WARD: Objection. Calls</p> <p>12 for speculation. Rocco, one</p> <p>13 second. Objection. Calls for</p> <p>14 speculation.</p> <p>15 Q. You can answer.</p> <p>16 A. If I would -- yes.</p> <p>17 Q. That your testimony is the same as</p> <p>18 previously?</p> <p>19 A. Yes.</p> <p>20 Q. Do you know Mr. Restrepo?</p> <p>21 A. Excuse me, who?</p> <p>22 Q. Do you know a man named Luis</p> <p>23 Restrepo?</p> <p>24 A. Luis Lastrepo?</p> <p>25 Q. R-E-S-T-R-E-P-O.</p>	<p style="text-align: right;">Page 255</p> <p>1 Rocco Guidici Pietro</p> <p>2 A. I don't remember, exactly, how he</p> <p>3 came to the firm, but, I mean, I know him. I</p> <p>4 know he was there, yes.</p> <p>5 Q. Were you aware of the fact that</p> <p>6 Mr. Restrepo was involved with the -- was</p> <p>7 hired to deal with the continuing membership</p> <p>8 application that Alexander Capital had filed</p> <p>9 in 2015?</p> <p>10 Were you aware of that in 2015?</p> <p>11 A. I am sure he helped out with the</p> <p>12 CMA.</p> <p>13 Q. Okay. And are you aware of the</p> <p>14 fact as to Mr. -- that Mr. Stack, who had</p> <p>15 been the chief compliance officer, as to what</p> <p>16 happened to his position with the company,</p> <p>17 after Mr. Restrepo was hired? Do you have</p> <p>18 any understanding as to what happed to Mr.</p> <p>19 Stack?</p> <p>20 A. I believe he was made senior</p> <p>21 compliance officer.</p> <p>22 Q. All right. Mr. Stack previously</p> <p>23 testified that after Mr. Restrepo became</p> <p>24 chief compliance officer, that his</p> <p>25 understanding was that he was now junior to</p>
<p style="text-align: right;">Page 254</p> <p>1 Rocco Guidici Pietro</p> <p>2 A. Yes, I believe he was -- he worked</p> <p>3 for Alexander at one point.</p> <p>4 Q. Okay. Are you aware of the fact</p> <p>5 that in October 2015, that Mr. Restrepo was</p> <p>6 employed by Alexander Capital as a chief</p> <p>7 compliance officer?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. Do you have any</p> <p>10 understanding of the circumstances under</p> <p>11 which Mr. Restrepo was employed by Alexander</p> <p>12 Capital as a chief compliance officer in</p> <p>13 October of 2015?</p> <p>14 A. I'm sorry, repeat the question,</p> <p>15 I --</p> <p>16 Q. Are you aware of any of the</p> <p>17 circumstances surrounding the hiring of Mr.</p> <p>18 Restrepo in October 2015 as chief compliance</p> <p>19 officer at Alexander Capital, LP?</p> <p>20 A. Not that I recall. Compliance</p> <p>21 officer.</p> <p>22 Q. Were you involved in any way, to</p> <p>23 your knowledge, with the hiring of Mr.</p> <p>24 Restrepo as chief compliance officer at</p> <p>25 Alexander Capital, LP, in 2015?</p>	<p style="text-align: right;">Page 256</p> <p>1 Rocco Guidici Pietro</p> <p>2 Mr. Restrepo and reported to him, and not</p> <p>3 that he was senior.</p> <p>4 Is that your understanding? Is</p> <p>5 that consistent with your understanding of</p> <p>6 what happened in 2015?</p> <p>7 A. Yes.</p> <p>8 Q. And are you aware -- were you made</p> <p>9 aware of what -- what Mr. Restrepo tried to</p> <p>10 do in 2015, regarding the continuing</p> <p>11 membership application that Alexander Capital</p> <p>12 had filed in 2015?</p> <p>13 A. I know he was trying to help the</p> <p>14 attorneys get it approved.</p> <p>15 Q. And was it your understanding Mr.</p> <p>16 Restrepo was working with Mr. Ross, Carmel</p> <p>17 Ross, at the Sichenzia firm? Is that your</p> <p>18 understanding?</p> <p>19 A. Yes, they would be working with</p> <p>20 Compliance.</p> <p>21 Q. What was your understanding as to</p> <p>22 whether or not Mr. Restrepo was successful in</p> <p>23 his working with FINRA, regarding the</p> <p>24 continuing membership application?</p> <p>25 A. I don't recall what happened, which</p>

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<p style="text-align: right;">Page 257</p> <p>1 Rocco Guidici Pietro</p> <p>2 one he was working on, and what happened with</p> <p>3 it.</p> <p>4 Q. All right. Are you aware of the</p> <p>5 fact that in -- that the continuing</p> <p>6 membership application that Alexander Capital</p> <p>7 had filed in 2015, that it subsequently was</p> <p>8 withdrawn by Alexander Capital, LP? Were you</p> <p>9 aware of that?</p> <p>10 A. Yeah, I remember withdrawing one or</p> <p>11 two of them, yes.</p> <p>12 Q. Okay. Now, when you say, "one or</p> <p>13 two of them," was there more than one that</p> <p>14 you remember, a continuing membership</p> <p>15 application?</p> <p>16 A. Over the years.</p> <p>17 Q. Over the years. All right. Is the</p> <p>18 -- prior to 2015, had Alexander Capital filed</p> <p>19 any continuing membership applications with</p> <p>20 FINRA, to your knowledge?</p> <p>21 A. Before 2015, yes, to change</p> <p>22 ownership.</p> <p>23 Q. To change ownership. Other than we</p> <p>24 discussed that previously; is that correct?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 259</p> <p>1 Rocco Guidici Pietro</p> <p>2 A. I don't know, exactly, when it</p> <p>3 happened.</p> <p>4 Q. Do you recall that it happened</p> <p>5 after the stop order and the SEC</p> <p>6 investigation --</p> <p>7 A. I don't.</p> <p>8 Q. -- we've been talking about?</p> <p>9 A. I don't know when it happened.</p> <p>10 Q. And do you have an understanding as</p> <p>11 to the reason why Alexander Capital, LP</p> <p>12 withdrew the continuing membership</p> <p>13 application that we previously discussed</p> <p>14 today?</p> <p>15 A. Yes.</p> <p>16 Q. What is your understanding?</p> <p>17 A. FINRA gives you an opportunity to</p> <p>18 pull it, so that you can go back in to</p> <p>19 refile. So, they gave us the opportunity.</p> <p>20 Q. To withdraw it?</p> <p>21 A. To withdraw it.</p> <p>22 Q. Okay. And when is your -- did you</p> <p>23 have an understanding that it was refiled at</p> <p>24 some time?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 258</p> <p>1 Rocco Guidici Pietro</p> <p>2 Q. Okay. And there was only about</p> <p>3 changing ownership; is that correct?</p> <p>4 A. From what I recall. Expanding the</p> <p>5 firm, changing ownership.</p> <p>6 Q. Okay. It was not seeking to get</p> <p>7 firm commitment authorization; is that</p> <p>8 correct, the one we previously discussed in</p> <p>9 2012 to 2013? Is that correct?</p> <p>10 A. I would have to look at the</p> <p>11 application. I don't remember what we</p> <p>12 requested.</p> <p>13 Q. Do you have any memory that it</p> <p>14 included a request for firm commitment</p> <p>15 authorization or you have no memory?</p> <p>16 A. I have no memory. I would have to</p> <p>17 look at it.</p> <p>18 Q. Okay. And -- but you are aware</p> <p>19 that the application that was filed in 2015</p> <p>20 that we've been discussing today was</p> <p>21 withdrawn by Alexander Capital, LP; is that</p> <p>22 correct?</p> <p>23 A. I recall that now, yes.</p> <p>24 Q. And do you recall that that</p> <p>25 occurred in 2016?</p>	<p style="text-align: right;">Page 260</p> <p>1 Rocco Guidici Pietro</p> <p>2 Q. And when -- what is your</p> <p>3 understanding as to when it was refiled?</p> <p>4 A. I don't know, exactly, when it was</p> <p>5 refiled.</p> <p>6 Q. Was it refiled in 2016?</p> <p>7 A. I don't know.</p> <p>8 Q. But you understand that a</p> <p>9 continuing membership application was</p> <p>10 subsequently refiled, correct?</p> <p>11 A. Yes.</p> <p>12 Q. And in December 2017, at some</p> <p>13 point, Alexander Capital was given</p> <p>14 authorization by FINRA to conduct firm</p> <p>15 commitment offerings; is that correct?</p> <p>16 A. Yes.</p> <p>17 Q. Are you aware of the fact as to</p> <p>18 whether or not Alexander Capital was ever the</p> <p>19 subject of an investigation by FINRA</p> <p>20 concerning its participation in firm</p> <p>21 commitment offerings, to which it did not</p> <p>22 have authority?</p> <p>23 Are you aware of that occurring?</p> <p>24 A. Yes.</p> <p>25 Q. I will show you...</p>

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<p style="text-align: right;">Page 261</p> <p>1 Rocco Guidici Pietro</p> <p>2 MR. WARD: Jan, how much</p> <p>3 longer do you think you will be</p> <p>4 going?</p> <p>5 MR. SCHLICHTMANN: I will be</p> <p>6 wrapping up here, so, you know, if</p> <p>7 you want to take a break, we can,</p> <p>8 but I am -- really am at the end</p> <p>9 here, near the end here, all right?</p> <p>10 MR. WARD: Okay.</p> <p>11 MR. SCHLICHTMANN: If you</p> <p>12 want to go through or take a</p> <p>13 break -- what's your pleasure?</p> <p>14 MR. WARD: Maybe we can take</p> <p>15 a break, I will need a break anyway</p> <p>16 before I come back.</p> <p>17 MR. SCHLICHTMANN: Sure,</p> <p>18 let's do that. Regular break.</p> <p>19 Five minutes or what?</p> <p>20 MR. WARD: Yeah, actually,</p> <p>21 let's take a ten, and then I should</p> <p>22 be ready to go directly after you</p> <p>23 are done, if you will be done</p> <p>24 pretty soon.</p> <p>25 MR. SCHLICHTMANN: Great, I</p>	<p style="text-align: right;">Page 263</p> <p>1 Rocco Guidici Pietro</p> <p>2 Were you aware of that?</p> <p>3 A. Yes.</p> <p>4 Q. And in this order of 2018, it</p> <p>5 states that "Respondent, Alexander Capital,</p> <p>6 is a Delaware limited partnership with its</p> <p>7 main office in New York, New York, and from</p> <p>8 2012 until 2014, had a branch office on</p> <p>9 Staten Island, New York."</p> <p>10 Do you see that?</p> <p>11 A. Yes.</p> <p>12 Q. And "It has been registered as a</p> <p>13 broker-dealer since 1996." Do you see that?</p> <p>14 A. Yes.</p> <p>15 Q. It also states that "broker-dealers</p> <p>16 have a responsibility to supervise their</p> <p>17 employees through procedures and systems to</p> <p>18 implement the procedures that are reasonably</p> <p>19 designed to prevent and detect violations of</p> <p>20 the federal securities laws." Do you see</p> <p>21 that?</p> <p>22 A. Yes.</p> <p>23 Q. Was it your understanding, in 2014</p> <p>24 and 2015, that Alexander Capital, as a</p> <p>25 broker-dealer, with a membership in FINRA,</p>
<p style="text-align: right;">Page 262</p> <p>1 Rocco Guidici Pietro</p> <p>2 will. Thank you.</p> <p>3 THE VIDEOGRAPHER: Off the</p> <p>4 record. The time is 4:33 p.m.</p> <p>5 (Whereupon, a recess was</p> <p>6 taken at this time.)</p> <p>7 THE VIDEOGRAPHER: We are</p> <p>8 back on the record. Time is 4:49.</p> <p>9 BY MR. SCHLICHTMANN:</p> <p>10 Q. All right. Mr. Guidici Pietro, I am</p> <p>11 going to show you a document. And this is a</p> <p>12 filing by the SEC against Alexander Capital,</p> <p>13 dated June 29, 2018. Do you see that?</p> <p>14 A. Yes.</p> <p>15 Q. And it concerns an order -- now,</p> <p>16 this is Plaintiff's Exhibit 32. It's an</p> <p>17 "order instituting administrative proceedings</p> <p>18 pursuant to section 15B of the Securities</p> <p>19 Exchange Act of 1934, making findings and</p> <p>20 imposing remedial sanctions."</p> <p>21 Do you see that?</p> <p>22 A. Yes.</p> <p>23 Q. Are you aware of the fact that the</p> <p>24 SEC instituted proceedings against Alexander</p> <p>25 Capital that resulted in 2018, in an order?</p>	<p style="text-align: right;">Page 264</p> <p>1 Rocco Guidici Pietro</p> <p>2 had a responsibility to supervise their</p> <p>3 employees through procedures and systems to</p> <p>4 implement the procedures that are reasonably</p> <p>5 designed to prevent and detect violations of</p> <p>6 the federal securities law?</p> <p>7 A. Yes.</p> <p>8 Q. Was it your understanding, in 2014</p> <p>9 and 2015, that this was a key component of</p> <p>10 investor protection?</p> <p>11 A. For retail investors, yes.</p> <p>12 Q. Okay. Now, it states here,</p> <p>13 paragraph number 3, "From 2012 through 2014."</p> <p>14 Now, during that period of time -- you became</p> <p>15 the chief operating officer sometime in 2012;</p> <p>16 is that correct?</p> <p>17 A. Yes.</p> <p>18 Q. And that -- and you were a chief</p> <p>19 operating officer through 20 -- through the</p> <p>20 time you assumed that position in 2012,</p> <p>21 through 2013, and through 2014; is that</p> <p>22 correct?</p> <p>23 A. Yes.</p> <p>24 Q. And it states here that "from 2012</p> <p>25 to 2014, Alexander Capital failed reasonably</p>

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<p style="text-align: right;">Page 265</p> <p>1 Rocco Guidicipietro</p> <p>2 to implement certain policies and procedures</p> <p>3 and permitted a lax compliance environment</p> <p>4 in which these registered representatives</p> <p>5 were not reasonably monitored or disciplined,</p> <p>6 procedures were not followed, and indications</p> <p>7 of potential misconduct were not acted upon</p> <p>8 by the supervisors of the three registered</p> <p>9 representatives referred to in this report."</p> <p>10 Do you see that?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. Now, are you familiar with</p> <p>13 the events that the SEC is referring to in</p> <p>14 this order?</p> <p>15 A. Yes, for the most part.</p> <p>16 Q. And is it fair to -- is it -- based</p> <p>17 on your understanding of the practices and</p> <p>18 procedures in place in Alexander Capital</p> <p>19 between 2012 and 2014, do you think it is</p> <p>20 accurate to state that Alexander Capital,</p> <p>21 during that period of time, permitted a lax</p> <p>22 compliance environment?</p> <p>23 A. No.</p> <p>24 Q. Do you take issue with the finding</p> <p>25 by the SEC that Alexander Capital, between</p>	<p style="text-align: right;">Page 267</p> <p>1 Rocco Guidicipietro</p> <p>2 Capital, LP; is that what you are saying?</p> <p>3 A. Correct.</p> <p>4 Q. Okay. But from January '14,</p> <p>5 following, the management of Alexander</p> <p>6 Capital was under the -- was under you and</p> <p>7 Mr. Amato as the ultimate manager of the firm</p> <p>8 at that point in time; is that correct?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. From January '14, onward,</p> <p>11 did -- are you aware as to what steps you or</p> <p>12 Mr. Amato took as the ultimate managers of</p> <p>13 Alexander Capital at that time, regarding the</p> <p>14 compliance environment at Alexander Capital,</p> <p>15 LP, from January 2014, onward?</p> <p>16 A. Yes.</p> <p>17 Q. What did you do?</p> <p>18 A. We got rid of every rep that was in</p> <p>19 this case, we closed the Staten Island</p> <p>20 office, and we hired new compliance</p> <p>21 personnel.</p> <p>22 Q. Does that include Mr. Stack?</p> <p>23 A. Yes.</p> <p>24 Q. And did you put in place policies</p> <p>25 and procedures to ensure a compliance</p>
<p style="text-align: right;">Page 266</p> <p>1 Rocco Guidicipietro</p> <p>2 2012 and 2014, permitted a lax compliance</p> <p>3 environment?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. And how would you describe</p> <p>6 the compliance environment at Alexander</p> <p>7 Capital between 2012 and 2014?</p> <p>8 A. Fran Lanaia was in control of the</p> <p>9 firm those two years.</p> <p>10 Q. Francine Lanaia?</p> <p>11 A. Yes.</p> <p>12 Q. After you became -- after this --</p> <p>13 December 2013?</p> <p>14 A. Yes.</p> <p>15 Q. Well, Francine Lanaia took a</p> <p>16 position with Alexander Capital, LP?</p> <p>17 A. Fran Lanaia was the chief</p> <p>18 compliance officer, the CEO, and president.</p> <p>19 Q. Okay. Until what time?</p> <p>20 A. Until we took control over in '14.</p> <p>21 Q. Okay. December of 2013, right, and</p> <p>22 onward; is that correct?</p> <p>23 A. January '14.</p> <p>24 Q. All right. So as of January '14,</p> <p>25 Ms. Lanaia was no longer managing Alexander</p>	<p style="text-align: right;">Page 268</p> <p>1 Rocco Guidicipietro</p> <p>2 environment that would ensure that the rules</p> <p>3 and regulations applicable to Alexander</p> <p>4 Capital, LP were followed?</p> <p>5 A. Yes, we had to.</p> <p>6 Q. Okay. And is it your understanding</p> <p>7 that you did do that as -- you and Mr. Amato,</p> <p>8 as the ultimate managers of the firm at that</p> <p>9 time?</p> <p>10 A. Yes, with the people that we hired,</p> <p>11 we put procedures in place.</p> <p>12 Q. And does that include Mr. Gazdak as</p> <p>13 the head of Investment Banking?</p> <p>14 A. He came on a little later, I</p> <p>15 believe.</p> <p>16 Q. All right, and he -- is it your</p> <p>17 understanding that Mr. Gazdak, as part of his</p> <p>18 job responsibilities, was responsible for</p> <p>19 becoming familiar with the policies and</p> <p>20 procedures of Alexander Capital, to ensure a</p> <p>21 compliance environment that would ensure that</p> <p>22 the firm followed the rules and regulations</p> <p>23 of FINRA and the SEC that were applicable to</p> <p>24 it?</p> <p>25 A. Yes, the rules of FINRA and the</p>

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<p style="text-align: right;">Page 269</p> <p>1 Rocco Guidici Pietro</p> <p>2 SEC.</p> <p>3 Q. All right. That it was Mr.</p> <p>4 Gazdak's responsibility to become familiar</p> <p>5 with the policies and procedures of the firm</p> <p>6 regarding compliance with the rules and</p> <p>7 regulations of FINRA, and the SEC, applicable</p> <p>8 to Alexander Capital, LP; is that correct?</p> <p>9 A. The Compliance would oversee Mr.</p> <p>10 Gazdak.</p> <p>11 Q. But I am specifically referring to</p> <p>12 Mr. Gazdak. Is it your understanding that</p> <p>13 Mr. Gazdak, once he became head of Investment</p> <p>14 Banking, had a responsibility to be familiar</p> <p>15 with the policies and procedures at Alexander</p> <p>16 Capital that were meant to ensure a</p> <p>17 compliance environment in which Alexander</p> <p>18 Capital, LP was following the rules and</p> <p>19 regulations of FINRA and the SEC, applicable</p> <p>20 to its business?</p> <p>21 A. Yes.</p> <p>22 Q. And was it your understanding that</p> <p>23 Mr. Stack, once he was employed by Alexander</p> <p>24 Capital, LP, had the same responsibility as</p> <p>25 Mr. Gazdak, to be familiar with the policies</p>	<p style="text-align: right;">Page 271</p> <p>1 Rocco Guidici Pietro</p> <p>2 Q. Are you familiar with the term</p> <p>3 "broker check report"?</p> <p>4 A. Yes.</p> <p>5 Q. What's your understanding of what a</p> <p>6 broker check report is?</p> <p>7 A. It's the history of the firm.</p> <p>8 Regulatory history.</p> <p>9 Q. That's available to the public?</p> <p>10 A. Yes.</p> <p>11 Q. Put out by FINRA?</p> <p>12 A. Yes.</p> <p>13 Q. Now, in this report it says</p> <p>14 "disclosure events starting on page 21." And</p> <p>15 is it your understanding or was it your</p> <p>16 understanding -- or is it your understanding</p> <p>17 that the broker check report includes any</p> <p>18 events in which the company, in this case</p> <p>19 Alexander Capital, LP, was involved with from</p> <p>20 a regulatory standpoint?</p> <p>21 Is that what you understood would</p> <p>22 be some of the information contained in a</p> <p>23 broker check report about Alexander Capital,</p> <p>24 LP?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 270</p> <p>1 Rocco Guidici Pietro</p> <p>2 and procedures in place at Alexander Capital</p> <p>3 that were meant to ensure a compliance</p> <p>4 environment in which the rules and</p> <p>5 regulations of FINRA and the SEC were</p> <p>6 followed by Alexander Capital, LP?</p> <p>7 A. Yes.</p> <p>8 Q. All right. I will show you what's</p> <p>9 going to -- did I give the number, by the</p> <p>10 way? Sorry, did I give the number, the</p> <p>11 exhibit number for that exhibit?</p> <p>12 MR. WARD: 32, yes.</p> <p>13 MR. SCHLICHTMANN: I did.</p> <p>14 Court reporter satisfied that I did</p> <p>15 there? That's a "yes," all right.</p> <p>16 Thank you.</p> <p>17 Q. I am now showing you -- can you see</p> <p>18 I put on the board Plaintiff's Exhibit 29.</p> <p>19 You see this?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. Now, this has FINRA's</p> <p>22 letterhead at the top, and it says, "broker</p> <p>23 check report, Alexander Capital, LP." Do you</p> <p>24 see that?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 272</p> <p>1 Rocco Guidici Pietro</p> <p>2 Q. Now, turning to page 21, is when</p> <p>3 the disclosures are included and if I go to</p> <p>4 disclosure number 2, do you see that?</p> <p>5 A. Yes.</p> <p>6 Q. All right. And -- all right. Now,</p> <p>7 can you read the bottom here, disclosure 2?</p> <p>8 Can you see the -- is it big enough? Do I</p> <p>9 need to blow it up or can you see it?</p> <p>10 A. I can't see the bottom of it. I</p> <p>11 see the top.</p> <p>12 Q. Okay. All right. I am going to</p> <p>13 try and -- can you read that bottom paragraph</p> <p>14 there under "disclosure 2"?</p> <p>15 A. "Without admitting or denying the</p> <p>16 findings"?</p> <p>17 Q. Yes.</p> <p>18 A. "The firm consented to the</p> <p>19 sanctions to the findings in the -- conducted</p> <p>20 a security business while below its net cap</p> <p>21 requirement."</p> <p>22 Q. Yes, and now let me read it, what</p> <p>23 you just read. Thank you. It says under</p> <p>24 disclosure 2 on this document, it says,</p> <p>25 "Without admitting or denying the findings,</p>

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<p style="text-align: right;">Page 273</p> <p>1 Rocco Guidici Pietro</p> <p>2 the firm, referring to Alexander Capital, LP,</p> <p>3 consented to the sanctions and to the entry</p> <p>4 of findings that it conducted a security</p> <p>5 business while below its net capital</p> <p>6 requirement." Do you see that?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. Is it your understanding</p> <p>9 that Alexander Capital, LP at some point</p> <p>10 consented to the sanctions and to the entry</p> <p>11 of findings that it conducted a securities</p> <p>12 business while below its net capital</p> <p>13 requirements?</p> <p>14 A. We didn't agree with the findings</p> <p>15 but we...</p> <p>16 Q. Okay. And you didn't contest the</p> <p>17 findings; is that correct?</p> <p>18 A. It's hard to contest the SEC.</p> <p>19 Q. Okay.</p> <p>20 A. We contested them as far as we</p> <p>21 could.</p> <p>22 Q. All right. And at the end, you</p> <p>23 agreed to the entry of findings and a</p> <p>24 sanction and a fine; is that correct?</p> <p>25 A. We both came to an agreement</p>	<p style="text-align: right;">Page 275</p> <p>1 Rocco Guidici Pietro</p> <p>2 Q. All right. Were you aware of the</p> <p>3 fact that that was part of the findings?</p> <p>4 A. I didn't recall that, no.</p> <p>5 Q. Okay. It says, "The findings also</p> <p>6 included that the firm made a material change</p> <p>7 in its business operations by participating</p> <p>8 in firm commitment offerings without</p> <p>9 receiving approval from FINRA to do so."</p> <p>10 Is it your understanding that --</p> <p>11 that Alexander Capital, in a period of time,</p> <p>12 made a material change in its business</p> <p>13 operations by participating in firm</p> <p>14 commitment offerings without receiving</p> <p>15 approval from FINRA to do so?</p> <p>16 A. We were participating in selling</p> <p>17 group offerings that we believed we were</p> <p>18 allowed to do.</p> <p>19 Q. That were firm commitment</p> <p>20 offerings?</p> <p>21 A. Yes.</p> <p>22 Q. Do you know the period of time that</p> <p>23 you engaged in such selling group?</p> <p>24 A. I don't know the exact period of</p> <p>25 time, no.</p>
<p style="text-align: right;">Page 274</p> <p>1 Rocco Guidici Pietro</p> <p>2 without admitting any wrongdoing. We paid</p> <p>3 the fine, yes.</p> <p>4 Q. Okay. Now, in this it talks about</p> <p>5 the fact that the -- "while conducting a</p> <p>6 securities business, it did so below its net</p> <p>7 capital requirements." Are you aware of the</p> <p>8 fact as to whether, in 2014 and 2015,</p> <p>9 Alexander Capital operated its business below</p> <p>10 its net capital requirements?</p> <p>11 A. No, I don't know.</p> <p>12 Q. You're not aware of that?</p> <p>13 A. Not at all.</p> <p>14 Q. It states on the second page, very</p> <p>15 long paragraph, all in caps, conducive to the</p> <p>16 best reading, but at the bottom -- all right.</p> <p>17 I am going to -- all right, now directing</p> <p>18 your attention to the bottom of this long</p> <p>19 paragraph, it said, "The firm maintained an</p> <p>20 inaccurate general ledger and failed to</p> <p>21 prepare accurate net capital computations due</p> <p>22 to its failure to properly record liability</p> <p>23 arising from the SEC administrative</p> <p>24 proceeding." Do you see it says that?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 276</p> <p>1 Rocco Guidici Pietro</p> <p>2 Q. Was it in 2015?</p> <p>3 A. I -- I -- I don't remember when it</p> <p>4 was.</p> <p>5 Q. Okay. And you see it says here</p> <p>6 that the "Firm's membership agreement,</p> <p>7 however, did not permit the firm to</p> <p>8 participate in the firm commitment offering."</p> <p>9 Do you see that?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. And is that consistent with</p> <p>12 your understanding, that the firm's</p> <p>13 membership agreement did not permit the firm</p> <p>14 to participate in firm commitment offerings?</p> <p>15 A. After -- after the findings. But</p> <p>16 before that, we thought we could participate.</p> <p>17 Q. Prior to these findings in this --</p> <p>18 talked about in this disclosure 2?</p> <p>19 A. Yes, prior to the SEC final</p> <p>20 determination.</p> <p>21 Q. You thought you -- are you saying</p> <p>22 that Alexander Capital thought it could</p> <p>23 participate in firm commitment offerings,</p> <p>24 prior to this SEC finding?</p> <p>25 A. Yes, in the selling group --</p>

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<p style="text-align: right;">Page 277</p> <p>1 Rocco Guidici Pietro</p> <p>2 selling group. Not the direct underwriter,</p> <p>3 selling group participant.</p> <p>4 Q. Okay. Was it your understanding</p> <p>5 that it couldn't be the sole book runner on a</p> <p>6 firm commitment offering?</p> <p>7 A. After -- after this point, yes.</p> <p>8 Q. All right. Well, I showed you</p> <p>9 previously the unreasonable letter, right,</p> <p>10 that was issued in May 15 of 2015. Does that</p> <p>11 refresh your recollection that the -- that</p> <p>12 FINRA made the company aware that its</p> <p>13 membership did not allow it to be the sole</p> <p>14 book running member of a firm commitment</p> <p>15 offering, at that time?</p> <p>16 A. Yes, correct, yes, it -- after that</p> <p>17 letter.</p> <p>18 Q. Okay. Of May 15, 2015?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. Alexander Capital, it's your</p> <p>21 testimony, that after May 15, 2015, Alexander</p> <p>22 Capital knew that its membership in FINRA did</p> <p>23 not allow it to be the sole book running</p> <p>24 manager of a firm commitment offering; is</p> <p>25 that correct?</p>	<p style="text-align: right;">Page 279</p> <p>1 Rocco Guidici Pietro</p> <p>2 Q. Do you know if Mr. Amato took any</p> <p>3 steps, after you became aware of it?</p> <p>4 A. I don't know what anybody else did.</p> <p>5 I don't know.</p> <p>6 Q. Does that mean that you don't know</p> <p>7 whether Mr. Stack did anything regarding it?</p> <p>8 A. I don't know.</p> <p>9 Q. Or Mr. Gazdak?</p> <p>10 A. No, I don't know.</p> <p>11 Q. Or Mr. Carlin?</p> <p>12 A. Don't know.</p> <p>13 Q. Okay. Do you have any reason to</p> <p>14 believe, understanding the practices and</p> <p>15 procedures of Alexander Capital at the time,</p> <p>16 as to whether in the ordinary course of</p> <p>17 Alexander Capital's business, that Mr. Stack</p> <p>18 should have been made aware of the</p> <p>19 unreasonable letter of May 15, 2015?</p> <p>20 A. No, I don't think we have any</p> <p>21 procedures that would make him aware of it.</p> <p>22 Q. Is that the same answer for Mr.</p> <p>23 Gazdak?</p> <p>24 A. Yes.</p> <p>25 Q. Is that the same answer for Mr.</p>
<p style="text-align: right;">Page 278</p> <p>1 Rocco Guidici Pietro</p> <p>2 MR. WARD: Objection; calls</p> <p>3 for speculation. Outside of</p> <p>4 personal knowledge.</p> <p>5 Q. Do you understand my question?</p> <p>6 A. No. Rephrase it again.</p> <p>7 Q. Sure. Is it your understanding</p> <p>8 that after May 15, 2015, Alexander Capital</p> <p>9 knew that it could not participate in a firm</p> <p>10 commitment offering as the sole book running</p> <p>11 manager?</p> <p>12 A. I knew. I can't testify to what</p> <p>13 everybody at Alexander Capital knew.</p> <p>14 Q. But you knew?</p> <p>15 A. I knew after we received the letter</p> <p>16 in '15, yes.</p> <p>17 Q. The unreasonable letter?</p> <p>18 A. Yes, after I was made aware of it.</p> <p>19 I am not sure when in '15, but I was made</p> <p>20 aware of it.</p> <p>21 Q. All right. And did you -- do you</p> <p>22 remember taking any steps, after you became</p> <p>23 aware of this, to make sure that other people</p> <p>24 at Alexander Capital were aware of it?</p> <p>25 A. No, I do not remember.</p>	<p style="text-align: right;">Page 280</p> <p>1 Rocco Guidici Pietro</p> <p>2 Carlin?</p> <p>3 A. Yes.</p> <p>4 Q. Now, previously you talked about</p> <p>5 best practices; is that correct? You</p> <p>6 remember discussing best practices?</p> <p>7 A. Yes.</p> <p>8 Q. All right. And could you just --</p> <p>9 what's your understanding of the phrase "best</p> <p>10 practices"?</p> <p>11 A. I was referring to -- there's</p> <p>12 really no rules on it, but best practices of</p> <p>13 doing our best to look through some due</p> <p>14 diligence and make sure that what we present</p> <p>15 to our clients, we try to -- our retail</p> <p>16 clients, try to check and make sure that it's</p> <p>17 as accurate as we can verify.</p> <p>18 Q. All right. Is it -- is it your</p> <p>19 understanding, in 2014 and 2015, that best</p> <p>20 practices included a responsibility of</p> <p>21 Alexander Capital to make sure that potential</p> <p>22 clients of the company know what Alexander</p> <p>23 Capital can do and cannot do as an</p> <p>24 underwriter?</p> <p>25 A. There's no rules to -- no, I don't</p>

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<p style="text-align: right;">Page 281</p> <p>1 Rocco Guidici Pietro</p> <p>2 see any obligation for us to do that.</p> <p>3 Q. All right. Well, just to make sure</p> <p>4 I understand, is it your understanding in --</p> <p>5 as of 2014 and 2015, that best practices, as</p> <p>6 you have defined it, would have required</p> <p>7 Alexander Capital, if it was following best</p> <p>8 practices, to inform any company that was</p> <p>9 seeking its services, to make sure they</p> <p>10 understood what activities Alexander Capital</p> <p>11 could undertake as an underwriter and what</p> <p>12 activities it could not undertake as an</p> <p>13 underwriter?</p> <p>14 A. I was referring to our retail</p> <p>15 customers.</p> <p>16 Q. Okay. I am talking about best</p> <p>17 practices regarding Alexander Capital's</p> <p>18 qualifications to do underwriting, all right?</p> <p>19 A. Right, there's no rules or</p> <p>20 regulations that we need to make sure --</p> <p>21 Q. Okay, well, so I am asking</p> <p>22 regarding best practices, did you have an</p> <p>23 understanding as to whether there were any</p> <p>24 best practices, in 2014 and 2015, that would</p> <p>25 have been applicable to Alexander Capital</p>	<p style="text-align: right;">Page 283</p> <p>1 Rocco Guidici Pietro</p> <p>2 understanding as to whether or not Alexander</p> <p>3 Capital should have disclosed to a company</p> <p>4 seeking its underwriting services, as to the</p> <p>5 fact that it was not capable -- at that time</p> <p>6 was not authorized, in 2014 and 2015, to</p> <p>7 conduct a firm commitment underwriting?</p> <p>8 A. As far as I know, there's no</p> <p>9 obligation to -- for us to do anything, any</p> <p>10 disclosures.</p> <p>11 Q. Regarding its -- Alexander</p> <p>12 Capital's lack of authorization during 2014</p> <p>13 and 2015, to conduct a firm commitment</p> <p>14 offering? Is that what you're saying?</p> <p>15 A. That's what I'm saying, yes.</p> <p>16 Q. And are you aware of the fact that</p> <p>17 the engagement agreements that Alexander</p> <p>18 Capital entered into with Alterix, also known</p> <p>19 as, Inpellis, as we previously went over, had</p> <p>20 a stated intent in the engagement agreement</p> <p>21 that Alexander Capital, when the offering got</p> <p>22 near to or became effective, that it had a</p> <p>23 stated intent to undertake the offering</p> <p>24 regarding Alterix, Inc., also known as</p> <p>25 Inpellis, on a firm commitment basis? Are</p>
<p style="text-align: right;">Page 282</p> <p>1 Rocco Guidici Pietro</p> <p>2 conducting itself as a potential underwriter</p> <p>3 for a company seeking its services?</p> <p>4 A. I wasn't involved in anything.</p> <p>5 MR. WARD: Objection. One</p> <p>6 second. Objection; vague.</p> <p>7 Q. Okay, let me withdraw the question.</p> <p>8 You talked about best practices,</p> <p>9 correct?</p> <p>10 A. Yes.</p> <p>11 Q. All right. Did you understand that</p> <p>12 there were any best practices regarding the</p> <p>13 underwriting activities of Alexander Capital,</p> <p>14 during 2014 and 2015, or you were not -- did</p> <p>15 not have an understanding of best practices</p> <p>16 regarding the underwriting activities of</p> <p>17 Alexander Capital, LP during 2014 and 2015?</p> <p>18 A. I do not. In 2014, '15, investment</p> <p>19 banking, I wasn't involved in.</p> <p>20 Q. All right. As you sit here today,</p> <p>21 are you aware of best practices regarding</p> <p>22 Alexander Capital's underwriting activities?</p> <p>23 A. Still the same. There's no rules</p> <p>24 or regulation that we are obligated to do so.</p> <p>25 Q. In 2014 and 2015, did you have an</p>	<p style="text-align: right;">Page 284</p> <p>1 Rocco Guidici Pietro</p> <p>2 you aware of that?</p> <p>3 MR. WARD: Objection.</p> <p>4 Confusing.</p> <p>5 Q. Okay. Let me bring it up. Okay.</p> <p>6 All right. I am showing what has previously</p> <p>7 been marked as the July 29, 2014, agreement,</p> <p>8 which has previously been marked as 154, all</p> <p>9 right. This Exhibit 154 is the July 29,</p> <p>10 2014, engagement agreement entered into</p> <p>11 between Alterix and Alexander Capital, LP.</p> <p>12 Are you familiar with that engagement</p> <p>13 agreement at all?</p> <p>14 A. No, I -- recently, but I have never</p> <p>15 seen it.</p> <p>16 Q. Okay. And just to show you that it</p> <p>17 was -- has a signature line here with Mr.</p> <p>18 Timothy Stack and Mr. Sterman. Do you see</p> <p>19 that?</p> <p>20 A. Yes.</p> <p>21 Q. Now, just drawing your attention to</p> <p>22 the first paragraph, it states, "We are</p> <p>23 pleased to submit the following proposal with</p> <p>24 respect to an initial public offering, the</p> <p>25 public offering, by Alterix, Inc., the</p>

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<p style="text-align: right;">Page 285</p> <p>1 Rocco Guidici Pietro</p> <p>2 company, or Alterix of up to \$20 million,</p> <p>3 consisting of the company's common shares,</p> <p>4 the price and terms of which shall be</p> <p>5 determined by the market price prior to the</p> <p>6 effective date of the offering closing."</p> <p>7 Do you see that?</p> <p>8 A. Yes.</p> <p>9 Q. "This letter states certain</p> <p>10 conditions and assumptions upon the proposed</p> <p>11 offering by Alexander Capital, LP, Alexander</p> <p>12 Capital. It is our intent, immediately prior</p> <p>13 to the effective date, to enter into an</p> <p>14 exclusive underwriting agreement, the</p> <p>15 underwriting agreement, with the company.</p> <p>16 The underwriter broker will act as agent on</p> <p>17 a, quote, 'firm commitment,' end quote,</p> <p>18 basis."</p> <p>19 Do you see that?</p> <p>20 A. Yes.</p> <p>21 Q. All right. Is it fair to say that</p> <p>22 this engagement agreement is a statement of</p> <p>23 Alexander Capital's intent, immediately prior</p> <p>24 to the effective date of the offering, to</p> <p>25 enter into an exclusive underwriting</p>	<p style="text-align: right;">Page 287</p> <p>1 Rocco Guidici Pietro</p> <p>2 Do you see that?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. Now, as of the time that</p> <p>5 this engagement agreement was entered into,</p> <p>6 you have already testified Alexander Capital</p> <p>7 did not have authority from FINRA to operate</p> <p>8 -- to be the manager of a firm commitment</p> <p>9 offering; is that correct?</p> <p>10 A. Correct.</p> <p>11 Q. Okay. Now, in this engagement</p> <p>12 agreement, it's stating Alexander Capital's</p> <p>13 intent to be the underwriter broker of a firm</p> <p>14 commitment offering on behalf of Alterix; is</p> <p>15 that fair?</p> <p>16 A. In the agreement, yes.</p> <p>17 Q. Okay. Now, do you think that prior</p> <p>18 to Alexander Capital entering into this</p> <p>19 engagement agreement with Alterix dated July</p> <p>20 29, 2014, that it had an obligation or</p> <p>21 responsibility, in accordance with the</p> <p>22 policies and practices of Alexander Capital,</p> <p>23 LP, at that time, to have informed Alterix,</p> <p>24 also known as, Inpellis, that at the time</p> <p>25 that it entered into the engagement -- or at</p>
<p style="text-align: right;">Page 286</p> <p>1 Rocco Guidici Pietro</p> <p>2 agreement in which Alexander Capital intended</p> <p>3 to act as the agent on a firm commitment</p> <p>4 basis? Do you see that?</p> <p>5 MR. WARD: Objection. Lack</p> <p>6 of personal knowledge and calls for</p> <p>7 speculation.</p> <p>8 Q. Do you think that's a -- what I</p> <p>9 just said is a fair statement of what we just</p> <p>10 read?</p> <p>11 A. I'm sorry, Bryan.</p> <p>12 I am not familiar with any of the</p> <p>13 underwriting or banking agreements.</p> <p>14 Q. Right, but I am now showing you</p> <p>15 this one and drawing your attention to the</p> <p>16 language that states that prior to the</p> <p>17 effective date, that Alexander Capital has an</p> <p>18 intent to enter into an exclusive</p> <p>19 underwriting agreement with Alterix.</p> <p>20 Do you see that?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. And that the "underwriter</p> <p>23 broker, referring to Alexander Capital, will</p> <p>24 act as agent on a, quote, 'firm commitment,'</p> <p>25 end quote, basis."</p>	<p style="text-align: right;">Page 288</p> <p>1 Rocco Guidici Pietro</p> <p>2 the time that it was to enter into the</p> <p>3 engagement agreement, it did not have the</p> <p>4 legal authority from FINRA to conduct a firm</p> <p>5 commitment offering as the underwriter</p> <p>6 broker?</p> <p>7 A. I wasn't involved in any of these</p> <p>8 communications. I don't know what they spoke</p> <p>9 about, and I can't testify around who did</p> <p>10 what at that time.</p> <p>11 Q. I appreciate that, but what my</p> <p>12 question is: Was it your understanding that</p> <p>13 Alexander -- that the people associated with</p> <p>14 Alexander Capital who were interacting and</p> <p>15 communicating with the representatives of</p> <p>16 Alterix, that prior to entering into the</p> <p>17 engagement agreement in July of 2014, that</p> <p>18 Alexander Capital, if it was to be in -- if</p> <p>19 those employees of Alexander Capital who were</p> <p>20 so interacting with the representatives of</p> <p>21 Alterix, also known as Inpellis, that they</p> <p>22 had an obligation or responsibility or a</p> <p>23 requirement, in accordance with the Alexander</p> <p>24 Capital policies and procedures at that time,</p> <p>25 to inform the representatives of Alterix,</p>

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<p style="text-align: right;">Page 289</p> <p>1 Rocco Guidici Pietro</p> <p>2 also known as, Inpellis, that at that time,</p> <p>3 Alexander Capital did not have the authority</p> <p>4 from FINRA to be the underwriter broker on a</p> <p>5 firm commitment basis?</p> <p>6 MR. WARD: Objection.</p> <p>7 Confusing and vague and</p> <p>8 speculation.</p> <p>9 Q. Does the question confuse you at</p> <p>10 all, Mr. Guidici Pietro?</p> <p>11 A. The whole question, my answer would</p> <p>12 be, no, I don't believe they had any</p> <p>13 obligation.</p> <p>14 Q. As you sit here today, do you</p> <p>15 believe that Alexander Capital -- that people</p> <p>16 working for Alexander Capital that are</p> <p>17 interacting or communicating with companies</p> <p>18 seeking Alexander Capital's services</p> <p>19 regarding an intended offering, whether</p> <p>20 Alexander Capital had -- has an obligation or</p> <p>21 responsibility or requirement, in accordance</p> <p>22 with Alexander Capital's policies and</p> <p>23 procedures, to inform any such company that</p> <p>24 Alexander Capital has or does not have</p> <p>25 authorization from FINRA to conduct a firm</p>	<p style="text-align: right;">Page 291</p> <p>1 Rocco Guidici Pietro</p> <p>2 services, that the information as to whether</p> <p>3 in 2014 and 2015, that Alexander Capital did</p> <p>4 not have the authority from FINRA to conduct</p> <p>5 a firm commitment offering, whether that was</p> <p>6 information that should have been -- excuse</p> <p>7 me -- that that was information that such a</p> <p>8 company would be -- would want to know, prior</p> <p>9 to entering into an engagement agreement,</p> <p>10 such as the one depicted in Exhibit 154?</p> <p>11 MR. WARD: Objection;</p> <p>12 confusing and calls for</p> <p>13 speculation.</p> <p>14 Q. Are you confused by my question?</p> <p>15 A. I don't -- I can't testify what</p> <p>16 Alterix knew about Alexander.</p> <p>17 Q. Right, I am just asking in general,</p> <p>18 based on your understanding, if a company</p> <p>19 like Alterix, in 2014 and 2015, did you have</p> <p>20 an understanding if a company like Alterix,</p> <p>21 entered into -- was thinking about entering</p> <p>22 into an engagement agreement, such as the one</p> <p>23 we just read, similar to Exhibit 154, that</p> <p>24 was it your understanding that a company like</p> <p>25 that, intending to enter into a relationship</p>
<p style="text-align: right;">Page 290</p> <p>1 Rocco Guidici Pietro</p> <p>2 commitment offer?</p> <p>3 MR. WARD: Objection; vague</p> <p>4 and calls for legal conclusion.</p> <p>5 You can answer, if you can.</p> <p>6 A. No. Same thing. Same answer.</p> <p>7 Q. All right. So from 2014 to 2015,</p> <p>8 and throughout to this present period, is it</p> <p>9 your testimony that the policies and</p> <p>10 procedures of Alexander Capital that were in</p> <p>11 place at the time, 2014 and 2015, did not</p> <p>12 require anyone working for Alexander Capital</p> <p>13 to inform a company seeking its services as</p> <p>14 to what kind of authority it had under FINRA,</p> <p>15 regarding conducting an underwriting offering</p> <p>16 -- conducting an offering?</p> <p>17 MR. WARD: Objection. Calls</p> <p>18 for a legal conclusion. You may</p> <p>19 answer.</p> <p>20 A. I am not aware of any rules or</p> <p>21 obligations for us to disclose that, no.</p> <p>22 Q. All right. As you -- during 2014</p> <p>23 and 2015, did you -- was it your</p> <p>24 understanding that companies that were</p> <p>25 seeking Alexander Capital's underwriting</p>	<p style="text-align: right;">Page 292</p> <p>1 Rocco Guidici Pietro</p> <p>2 with Alexander Capital, on the terms</p> <p>3 discussed in that first paragraph, was it</p> <p>4 your understanding that such a company would</p> <p>5 want to know whether or not Alexander Capital</p> <p>6 at that time had the authority from FINRA to</p> <p>7 conduct a firm commitment offering as an</p> <p>8 underwriter?</p> <p>9 A. Same answer; no obligation to tell</p> <p>10 them. Can't answer what they would want to</p> <p>11 know.</p> <p>12 Q. And you have no -- as you're</p> <p>13 sitting here today, do you have any reason to</p> <p>14 believe that a company at that time would</p> <p>15 want to know such information?</p> <p>16 A. They would just want to know that</p> <p>17 we could raise the money.</p> <p>18 Q. And you do not believe it would be</p> <p>19 important to a company, during 2014 and 2015,</p> <p>20 to know that Alexander Capital did not have</p> <p>21 the authority from FINRA to conduct firm</p> <p>22 commitment offerings?</p> <p>23 A. I don't think it's our obligation</p> <p>24 to -- there's no rules or regulations to tell</p> <p>25 them we were intent in raising the money.</p>

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<p style="text-align: right;">Page 293</p> <p>1 Rocco Guidici Pietro</p> <p>2 Q. To your knowledge, do you have any</p> <p>3 reason to believe that anyone at Alexander</p> <p>4 Capital ever informed anyone from Alterix or</p> <p>5 Inpellis, from 2014 to 2015, ever informed</p> <p>6 them that they did not have -- that Alexander</p> <p>7 Capital did not have, throughout that period</p> <p>8 of time, the authorization from FINRA to</p> <p>9 conduct a firm commitment offering, or you're</p> <p>10 not aware as to anyone at Alexander Capital,</p> <p>11 during that time, that informed anyone from</p> <p>12 Alterix or Inpellis about that?</p> <p>13 MR. WARD: Objection;</p> <p>14 compound and confusing.</p> <p>15 MR. SCHLICHTMANN: I don't</p> <p>16 want to be compound and confusing.</p> <p>17 MR. WARD: Misleading.</p> <p>18 MR. SCHLICHTMANN: I don't</p> <p>19 want to be misleading.</p> <p>20 Q. Do you have any reason to believe,</p> <p>21 during 2014 and 2015, that anyone from</p> <p>22 Alexander Capital ever informed anyone from</p> <p>23 Alterix or Inpellis, that Alexander Capital,</p> <p>24 during that period of time, 2014 through</p> <p>25 2015, did not have the authorization from</p>	<p style="text-align: right;">Page 295</p> <p>1 Rocco Guidici Pietro</p> <p>2 Q. Are you aware -- were you aware of</p> <p>3 the fact, in 2014 and 2015, that the</p> <p>4 confidential filings that were made on those</p> <p>5 -- on those times, June -- excuse me, April,</p> <p>6 June, August, and twice in October, on a</p> <p>7 confidential basis, that each time those</p> <p>8 offerings stated that they were firm</p> <p>9 commitment offerings that Alexander Capital</p> <p>10 intended to underwrite on that basis?</p> <p>11 Were you aware of that?</p> <p>12 A. No, I am not. I wasn't.</p> <p>13 Q. Were you aware during that -- in</p> <p>14 2015, that on -- at some point a public</p> <p>15 filing was made regarding the Alterix</p> <p>16 offering, I think previously you said you</p> <p>17 were not aware until later, until after the</p> <p>18 filing; is that correct?</p> <p>19 A. That's correct.</p> <p>20 Q. Okay. Are you aware -- were you</p> <p>21 aware in 2015, that on November 9, 2015, that</p> <p>22 the board of directors reviewed a November</p> <p>23 9th draft of the registration statement for</p> <p>24 the Alterix/Inpellis offering, and that the</p> <p>25 draft that they reviewed on November 9th was</p>
<p style="text-align: right;">Page 294</p> <p>1 Rocco Guidici Pietro</p> <p>2 FINRA to conduct a firm commitment offering</p> <p>3 as the underwriter of that offering?</p> <p>4 A. I have no knowledge of anybody --</p> <p>5 any conversation anybody had with the</p> <p>6 company.</p> <p>7 Q. About that matter?</p> <p>8 A. About that matter.</p> <p>9 Q. Now, did you -- are you aware of</p> <p>10 the fact that the board of directors of</p> <p>11 Alterix/Inpellis -- excuse me.</p> <p>12 Are you aware of the fact that a</p> <p>13 registration statement was filed</p> <p>14 confidentially regarding the Alterix/Inpellis</p> <p>15 offering, in which Alexander Capital was the</p> <p>16 intended underwriter, in April of 2015, and</p> <p>17 as well as June of 2015, as well as August of</p> <p>18 2015, as well as two more times, in October</p> <p>19 of 2015, on a confidential basis?</p> <p>20 Are you aware of that?</p> <p>21 A. No, I am not. At that time, I</p> <p>22 wasn't aware of.</p> <p>23 Q. I'm sorry?</p> <p>24 A. At that time I wasn't aware of it,</p> <p>25 no.</p>	<p style="text-align: right;">Page 296</p> <p>1 Rocco Guidici Pietro</p> <p>2 an offering which stated it was a firm</p> <p>3 commitment offering that Alexander Capital</p> <p>4 intended to underwrite as the sole book</p> <p>5 running manager? Were you aware of that?</p> <p>6 MR. WARD: Objection;</p> <p>7 assumes facts not in the record.</p> <p>8 MR. SCHLICHTMANN: All</p> <p>9 right. Well, let me show you -- in</p> <p>10 light of the objection, let me show</p> <p>11 you something.</p> <p>12 MR. WARD: Do you have any</p> <p>13 idea how much longer you will be</p> <p>14 going?</p> <p>15 MR. SCHLICHTMANN: Yes, I am</p> <p>16 definitely wrapping it up here.</p> <p>17 This is my last -- I mean, we're</p> <p>18 talking minutes. Okay, I just got</p> <p>19 to get the document up here, all</p> <p>20 right.</p> <p>21 MR. WARD: Okay.</p> <p>22 Q. So...all right. I am putting on</p> <p>23 the screen what's previously been marked as</p> <p>24 exhibit -- Plaintiff's Exhibit 34. Do you</p> <p>25 see it on the screen?</p>

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<p style="text-align: right;">Page 297</p> <p>1 Rocco Guidici Pietro</p> <p>2 A. Yes.</p> <p>3 Q. Okay. Do you recognize this as a</p> <p>4 registration statement you're familiar with?</p> <p>5 Not this particular one, but in general, the</p> <p>6 form.</p> <p>7 A. In general, I have seen them, but</p> <p>8 not familiar with them.</p> <p>9 Q. Okay. I will represent to you that</p> <p>10 this is the November 9th draft of the</p> <p>11 registration statement that was submitted to</p> <p>12 the board on the evening of November 9th for</p> <p>13 their review and approval for filing the next</p> <p>14 day, all right. I represent to you that that</p> <p>15 is true, okay?</p> <p>16 A. Okay.</p> <p>17 Q. This registration statement, with a</p> <p>18 date of November 9th, states on page 2, "This</p> <p>19 is a firm commitment initial public</p> <p>20 offering." Do you see that?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. And that this registration</p> <p>23 statement, this draft, was approved by the</p> <p>24 board for filing the next day, publicly. I</p> <p>25 want you to assume that that is true, what I</p>	<p style="text-align: right;">Page 299</p> <p>1 Rocco Guidici Pietro</p> <p>2 sorry?</p> <p>3 A. There's no way of knowing that.</p> <p>4 MR. WARD: Assumes facts not</p> <p>5 in evidence.</p> <p>6 Q. Well, I want you to assume what I</p> <p>7 showed you was November 9th draft that we</p> <p>8 just reviewed, and this -- that the board</p> <p>9 approved for filing the next day, November</p> <p>10 10th, and this is the registration statement</p> <p>11 that was actually filed on the evening of</p> <p>12 November 10th, all right? I want you to</p> <p>13 assume that that's true, okay? And is it</p> <p>14 fair to say that when you compare the one</p> <p>15 that was approved on November 9th, on the</p> <p>16 second page, it's different than the second</p> <p>17 page of the one that was actually filed on</p> <p>18 November -- the evening of November 10th? Is</p> <p>19 that true, comparing the two documents that I</p> <p>20 represented to you what they are?</p> <p>21 A. What you are showing me --</p> <p>22 Q. Yes.</p> <p>23 A. -- are different, yes, looks</p> <p>24 different.</p> <p>25 Q. And further down on this page, on</p>
<p style="text-align: right;">Page 298</p> <p>1 Rocco Guidici Pietro</p> <p>2 just said, all right?</p> <p>3 A. Okay.</p> <p>4 Q. All right. All right. Now, I am</p> <p>5 now going to put on the board -- on the</p> <p>6 screen, excuse me, this is Exhibit 31, and</p> <p>7 this is the public filing of the S-1</p> <p>8 regarding the Inpellis offering, okay, dated</p> <p>9 November -- that was filed on the evening of</p> <p>10 November 10th. All right. I want you to</p> <p>11 assume that that is true, all right?</p> <p>12 A. Okay.</p> <p>13 Q. Okay. And this publicly filed</p> <p>14 document -- this publicly filed registration</p> <p>15 statement, Exhibit 31, states on the second</p> <p>16 page, "This is an initial public offering of</p> <p>17 shares of stock."</p> <p>18 Do you see that?</p> <p>19 A. Yes.</p> <p>20 Q. And that this language is now</p> <p>21 different than the one I just showed you that</p> <p>22 was approved by the board on the evening of</p> <p>23 November 9th, all right?</p> <p>24 MR. WARD: Objection.</p> <p>25 MR. SCHLICHTMANN: I'm</p>	<p style="text-align: right;">Page 300</p> <p>1 Rocco Guidici Pietro</p> <p>2 the November 10th filing that was actually</p> <p>3 made, it says, "The underwriters are selling</p> <p>4 the shares of common stock, common stock, in</p> <p>5 this offering on a best efforts basis." Do</p> <p>6 you see that?</p> <p>7 A. Yes.</p> <p>8 Q. "The underwriters are not required</p> <p>9 to sell any specific number or dollar amount</p> <p>10 of common stock, but will use their best</p> <p>11 efforts to sell the securities offered.</p> <p>12 Because this is a best efforts offering, the</p> <p>13 underwriters do not have an obligation to</p> <p>14 purchase any shares of common stock, and as a</p> <p>15 result, there's a possibility that we may not</p> <p>16 receive any proceeds from the offering."</p> <p>17 Do you see that?</p> <p>18 A. Yes.</p> <p>19 Q. And was it your understanding, in</p> <p>20 2014 and 2015, that a best efforts offering</p> <p>21 was materially different than a firm</p> <p>22 commitment offering, regarding the fact that</p> <p>23 there was no guarantee by the underwriter, in</p> <p>24 a best efforts offering, that any of the</p> <p>25 shares would be sold?</p>

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<p style="text-align: right;">Page 301</p> <p>1 Rocco Guidici Pietro</p> <p>2 Is that fair to say; that was your</p> <p>3 understanding?</p> <p>4 MR. WARD: Objection; lacks</p> <p>5 personal knowledge.</p> <p>6 Q. Do you understand my question?</p> <p>7 A. I was going to say, no, can you</p> <p>8 rephrase your question?</p> <p>9 Q. Okay. All right. You see the</p> <p>10 statement in this registration statement that</p> <p>11 was actually filed, and it explains what a</p> <p>12 "best efforts offering" is; is that right?</p> <p>13 A. For the most part, yes.</p> <p>14 Q. Okay. And was that consistent with</p> <p>15 your understanding of what a best efforts</p> <p>16 offering in 2015?</p> <p>17 A. Best efforts, any time, offering,</p> <p>18 is consistent.</p> <p>19 Q. That statement in the actually</p> <p>20 filed S-1, that statement is consistent about</p> <p>21 what a best efforts offering is?</p> <p>22 A. Correct.</p> <p>23 Q. All right. Now -- and based on</p> <p>24 that statement of what a best efforts</p> <p>25 offering is, did you have an understanding</p>	<p style="text-align: right;">Page 303</p> <p>1 Rocco Guidici Pietro</p> <p>2 Q. Firm commitment.</p> <p>3 A. The firm is obligated to buy the</p> <p>4 firm -- the shares.</p> <p>5 Q. When you say, "firm," you mean</p> <p>6 Alexander Capital, LP?</p> <p>7 A. Alexander or, yes, any other firm</p> <p>8 that was on the cover.</p> <p>9 Q. Okay. So, on the November 9th</p> <p>10 draft that I represented to you was approved</p> <p>11 by the board that said it was a firm</p> <p>12 commitment basis, is it fair to say that</p> <p>13 under that registration statement that</p> <p>14 purported to be a firm commitment offering,</p> <p>15 that Alexander Capital, LP, that was intended</p> <p>16 to be the underwriter of that offering, that</p> <p>17 that -- under the terms of the firm</p> <p>18 commitment offering, Alexander Capital had</p> <p>19 the obligation to purchase a certain amount</p> <p>20 of shares of that offering; is that correct?</p> <p>21 A. In a firm commitment offering, yes.</p> <p>22 Q. And as opposed to the one that was</p> <p>23 actually filed the next day, Alexander</p> <p>24 Capital had, as the intended underwriter, had</p> <p>25 no obligation to purchase any shares of stock</p>
<p style="text-align: right;">Page 302</p> <p>1 Rocco Guidici Pietro</p> <p>2 that that was materially different than a</p> <p>3 firm commitment offering underwritten by an</p> <p>4 underwriter?</p> <p>5 MR. WARD: Objection;</p> <p>6 confusing.</p> <p>7 MR. SCHLICHTMANN: Okay, I</p> <p>8 don't want to be confusing.</p> <p>9 Q. Is the statement that we just went</p> <p>10 over about what a best efforts offering is,</p> <p>11 is that a materially different -- is it</p> <p>12 materially different in any way, in</p> <p>13 accordance with your understanding, as to</p> <p>14 what a firm commitment offering entailed?</p> <p>15 A. I don't believe it's materially</p> <p>16 different. It's a different way of raising</p> <p>17 money for a company.</p> <p>18 Q. Okay, and what's the difference?</p> <p>19 A. The difference is in firm</p> <p>20 commitment, you are obligated to buy the</p> <p>21 shares. In best efforts, you do your best</p> <p>22 efforts to sell the shares.</p> <p>23 Q. Who was obligated to buy the</p> <p>24 shares?</p> <p>25 A. In which one?</p>	<p style="text-align: right;">Page 304</p> <p>1 Rocco Guidici Pietro</p> <p>2 being offered; is that correct?</p> <p>3 A. That's correct.</p> <p>4 Q. And from the standpoint of the</p> <p>5 company, Alterix or Inpellis, did you have</p> <p>6 any understanding, as of that time, that a</p> <p>7 company like Alterix and Inpellis, okay, that</p> <p>8 had a best efforts offering as -- whether it</p> <p>9 would have a preference as to whether it</p> <p>10 would want a firm commitment or best efforts</p> <p>11 offering, because of that that difference we</p> <p>12 just talked about, or you had no such</p> <p>13 understanding?</p> <p>14 A. No such understanding. Would just</p> <p>15 want the money raised.</p> <p>16 Q. Was it -- is it your testimony that</p> <p>17 you did not understand that a company such as</p> <p>18 Alterix or Inpellis, that was going to have</p> <p>19 an initial public offering underwritten by</p> <p>20 Alexander Capital, would have any reason to</p> <p>21 prefer a firm commitment offering</p> <p>22 underwritten by Alexander Capital, as opposed</p> <p>23 to a best efforts offering where Alexander</p> <p>24 Capital was the underwriter?</p> <p>25 A. The company would prefer a firm</p>

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<p style="text-align: right;">Page 305</p> <p>1 Rocco Guidici Pietro</p> <p>2 commitment.</p> <p>3 Q. Okay. Why?</p> <p>4 A. Because then the firm is obligated</p> <p>5 to raise the money.</p> <p>6 Q. Okay. And when you use the word</p> <p>7 "company," you are referring to issuer as the</p> <p>8 company. In other words, Alterix or</p> <p>9 Inpellis, in this instance, would be the</p> <p>10 issuing company, correct?</p> <p>11 A. Correct.</p> <p>12 Q. And the firm you are referring to</p> <p>13 as the "underwriter," Alexander Capital, the</p> <p>14 intended underwriter of the offering; is that</p> <p>15 correct?</p> <p>16 A. Correct.</p> <p>17 Q. And so it is your testimony that</p> <p>18 your understanding was that a company like</p> <p>19 Alterix or Inpellis would prefer a firm</p> <p>20 commitment offering underwritten by Alexander</p> <p>21 Capital, as opposed to a best efforts</p> <p>22 offering in which Alexander Capital was the</p> <p>23 underwriter; is that correct?</p> <p>24 MR. WARD: Objection; calls</p> <p>25 for speculation.</p>	<p style="text-align: right;">Page 307</p> <p>1 Rocco Guidici Pietro</p> <p>2 A. It -- actually, I have seen firm</p> <p>3 commitment deals pulled at six o'clock at</p> <p>4 night because they can't raise the money.</p> <p>5 You can still cancel the deal. So it doesn't</p> <p>6 really matter.</p> <p>7 Q. All right. But there are -- under</p> <p>8 the underwriting agreements, it's usually the</p> <p>9 circumstances under which that occur are</p> <p>10 spelled out; is that correct?</p> <p>11 A. "Spelled out" as far as what?</p> <p>12 Q. In the engagement agreement or the</p> <p>13 underwriting agreement, excuse me.</p> <p>14 MR. WARD: Objection; calls</p> <p>15 for speculation.</p> <p>16 A. Again, I am not familiar with</p> <p>17 banking that much. I am just giving you some</p> <p>18 experience I have had.</p> <p>19 Q. Yeah.</p> <p>20 A. I have seen firm commitment deals</p> <p>21 cancels just as much as best efforts deals</p> <p>22 cancel.</p> <p>23 Q. Okay, but despite that, is it still</p> <p>24 your testimony, unless you want to change it,</p> <p>25 that a company like Alterix or Inpellis, if</p>
<p style="text-align: right;">Page 306</p> <p>1 Rocco Guidici Pietro</p> <p>2 Q. Is that correct?</p> <p>3 A. I will not speculate what they</p> <p>4 wanted. Firm commitment would probably be</p> <p>5 what they wanted.</p> <p>6 Q. Okay. Why would it probably be</p> <p>7 what they wanted? And when you say, "what</p> <p>8 they wanted," you're referring to the</p> <p>9 company; is that correct?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. Why would -- why did you</p> <p>12 just say that they would prefer -- the</p> <p>13 company would prefer the firm commitment</p> <p>14 offering?</p> <p>15 A. It's more likely that a firm</p> <p>16 commitment would be raising the money for the</p> <p>17 company.</p> <p>18 Q. As opposed to a best efforts</p> <p>19 offering?</p> <p>20 A. Right, but that doesn't mean it</p> <p>21 can't raise the money best efforts.</p> <p>22 Q. Right. But firm commitment, from a</p> <p>23 company standpoint, has a guarantee to it</p> <p>24 that the best efforts offering does not; is</p> <p>25 that correct?</p>	<p style="text-align: right;">Page 308</p> <p>1 Rocco Guidici Pietro</p> <p>2 given a choice between Alexander Capital as a</p> <p>3 firm commitment underwriter, as opposed to a</p> <p>4 best efforts underwriter, that the company,</p> <p>5 for the reasons you have expressed, would</p> <p>6 prefer to have the firm commitment offering</p> <p>7 because there's a greater chance they are</p> <p>8 actually going to see money, as opposed to a</p> <p>9 best efforts, which is a maybe?</p> <p>10 MR. WARD: Objection; calls</p> <p>11 for speculation.</p> <p>12 Q. Is that fair?</p> <p>13 A. Yes.</p> <p>14 Q. All right. Previously -- just want</p> <p>15 to make sure that I am clear. Previously you</p> <p>16 talked about best practices regarding</p> <p>17 disclosures on a registration statement; is</p> <p>18 that correct?</p> <p>19 Do you remember that?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. I am going to show you a</p> <p>22 document and I am done here. Okay. All</p> <p>23 right, I am going to show you -- I am going</p> <p>24 to show you what's previously been marked as</p> <p>25 Exhibit 130, Plaintiff's Exhibit 130. It's</p>

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<p style="text-align: right;">Page 309</p> <p>1 Rocco Guidici Pietro</p> <p>2 an e-mail from Mr. Marsico dated November 10,</p> <p>3 2015, to Mr. Carlin, and Mr. Gazdak. Do you</p> <p>4 see that?</p> <p>5 A. Yes.</p> <p>6 Q. And its subject is "SEC comment</p> <p>7 letter, confidential Inpellis, Inc., S-1."</p> <p>8 Do you see that?</p> <p>9 A. Yes.</p> <p>10 Q. And it's an 11/10/2015 letter. Do</p> <p>11 you see that?</p> <p>12 A. Yes.</p> <p>13 Q. The attachment to it is that</p> <p>14 letter. Do you see that? It says that.</p> <p>15 A. Yes.</p> <p>16 Q. Okay. And then it has</p> <p>17 attorney-client privileged communication</p> <p>18 which has been blacked out, and now I want to</p> <p>19 show you the attachment that went to Mr.</p> <p>20 Carlin and Mr. Gazdak on November 10th that</p> <p>21 was attached to Exhibit 130. In 2015, were</p> <p>22 you familiar with the fact that when</p> <p>23 registration statements were filed on a</p> <p>24 confidential basis, that -- that the Division</p> <p>25 of Corporate Finance at the SEC would provide</p>	<p style="text-align: right;">Page 311</p> <p>1 Rocco Guidici Pietro</p> <p>2 that time?</p> <p>3 A. Not aware of it at that time.</p> <p>4 Q. Are you aware of it now?</p> <p>5 A. I know that comments go back and</p> <p>6 forth, but I am not familiar with the</p> <p>7 process.</p> <p>8 Q. All right. I represent to you that</p> <p>9 this is -- Exhibit 131 is a comment letter by</p> <p>10 the Division of Corporate Finance, and that</p> <p>11 they had made a comment in response to each</p> <p>12 of the filings I previously talked about,</p> <p>13 each of the confidential filings. This is a</p> <p>14 response dated November 10, 2015, from Corp.</p> <p>15 Fin. that went to Mr. Mooney, as president</p> <p>16 and CEO of Inpellis, regarding the Inpellis,</p> <p>17 Inc., draft registration statement that was</p> <p>18 filed on October 28th on a confidential</p> <p>19 basis.</p> <p>20 Do you see that?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. And in this it states,</p> <p>23 general, number 1, "We note your response to</p> <p>24 comment one that they had previously given.</p> <p>25 However, you continue to omit the disclosure</p>
<p style="text-align: right;">Page 310</p> <p>1 Rocco Guidici Pietro</p> <p>2 comments to the issuing company and the</p> <p>3 underwriter regarding the disclosures made in</p> <p>4 the registration statement as to whether they</p> <p>5 were satisfactory or not, or required more</p> <p>6 information?</p> <p>7 Were you aware that that was the</p> <p>8 practice regarding registration --</p> <p>9 confidential registration statement filings?</p> <p>10 A. No, I was not.</p> <p>11 Q. Okay. Were you aware of the fact</p> <p>12 that -- were you aware of the Division of</p> <p>13 Corporate Finance of the SEC, that that</p> <p>14 existed, there was a Division of Corporate</p> <p>15 Finance?</p> <p>16 A. I know there's a Division of</p> <p>17 Corporate Finance, but I am not familiar with</p> <p>18 their procedures.</p> <p>19 Q. Were you aware, in 2015, that the</p> <p>20 Division of Corporate Finance would, as a</p> <p>21 matter of practice, respond to confidential</p> <p>22 filings by companies and their underwriter</p> <p>23 regarding the disclosures that were made, and</p> <p>24 that they would provide comments regarding</p> <p>25 those disclosures, or you were not aware at</p>	<p style="text-align: right;">Page 312</p> <p>1 Rocco Guidici Pietro</p> <p>2 contained in your previous submissions.</p> <p>3 Please add back disclosure regarding</p> <p>4 Biochemics, as it appears material to an</p> <p>5 understanding of your business." Do you see</p> <p>6 that?</p> <p>7 A. Yes.</p> <p>8 Q. All right. And then it goes on.</p> <p>9 But was it -- now, this comment letter, as</p> <p>10 you can see from the e-mail from Mr. Marsico,</p> <p>11 went to Mr. Carlin and Mr. Gazdak on November</p> <p>12 10th, the day that the comment letter was</p> <p>13 received; is that correct?</p> <p>14 That's your understanding from the</p> <p>15 e-mail I just showed you, Exhibit 130, that</p> <p>16 this was attached to?</p> <p>17 A. From the e-mail, yes.</p> <p>18 Q. I'm sorry?</p> <p>19 A. From the e-mail you showed me.</p> <p>20 Q. Yes, correct. All right. Was it</p> <p>21 your understanding that Alexander Capital, as</p> <p>22 the intended underwriter of an offering --</p> <p>23 intended underwriter of an offering of a</p> <p>24 company who was representing, that it would</p> <p>25 review, as a matter of regular routine, the</p>

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<p style="text-align: right;">Page 313</p> <p>1 Rocco Guidici Pietro</p> <p>2 comment letters that were being made by Corp.</p> <p>3 Fin. at the SEC, in relationship to</p> <p>4 registration statements that were being</p> <p>5 confidentiality filed in which Alexander</p> <p>6 Capital had involvement?</p> <p>7 MR. WARD: Objection;</p> <p>8 confusing.</p> <p>9 MR. SCHLICHTMANN: All</p> <p>10 right, I don't want to be</p> <p>11 confusing.</p> <p>12 Q. Is it your understanding that</p> <p>13 Alexander Capital, LP, as indicated by this</p> <p>14 e-mail containing this attachment of the</p> <p>15 comment letter, that it was part of the</p> <p>16 ordinary course for Alexander Capital, as the</p> <p>17 intended underwriter of an offering involving</p> <p>18 itself, that it would review any comment</p> <p>19 letters made by the SEC in regard to any</p> <p>20 confidential filings that were made in an</p> <p>21 offering that they were involved in, or you</p> <p>22 had no such understanding?</p> <p>23 A. I don't know what their procedures</p> <p>24 are during a transaction.</p> <p>25 Q. All right. And as you sit here</p>	<p style="text-align: right;">Page 315</p> <p>1 Rocco Guidici Pietro</p> <p>2 disclosures that had been omitted that were</p> <p>3 contained in previous commissions, is it your</p> <p>4 understanding as of 20- -- is it your</p> <p>5 understanding that best practices in 2015</p> <p>6 would have been for any such omitted</p> <p>7 disclosures to be fully reinstated, if the</p> <p>8 SEC was directing that they be added back?</p> <p>9 MR. WARD: Objection; vague</p> <p>10 and confusing.</p> <p>11 Q. Did you understand my question?</p> <p>12 A. My answer would be, it's not our</p> <p>13 belief -- it's not our obligation. There's</p> <p>14 no rules or FINRA SEC rules that we are</p> <p>15 obligated to. I believe that's the company's</p> <p>16 obligation to make sure it's correct.</p> <p>17 Q. Okay. And no obligation -- you're</p> <p>18 not aware of any requirement or obligation on</p> <p>19 the part of Alexander Capital, regarding the</p> <p>20 integrity of the disclosures made in a</p> <p>21 registration statement in which it was the</p> <p>22 intended underwriter? Is that what you are</p> <p>23 saying?</p> <p>24 A. That's what I am saying, correct.</p> <p>25 Q. Now, how about regarding best</p>
<p style="text-align: right;">Page 314</p> <p>1 Rocco Guidici Pietro</p> <p>2 today, are you aware that Alexander Capital,</p> <p>3 during 2014 and 2015, would review comment</p> <p>4 letters made by the SEC regarding the filing</p> <p>5 of confidential registration statements</p> <p>6 regarding offerings in which Alexander</p> <p>7 Capital was involved?</p> <p>8 A. I don't know.</p> <p>9 MR. WARD: Objection; vague.</p> <p>10 Q. Even as you sit here today?</p> <p>11 A. I don't know what -- how banking</p> <p>12 interacts with the counsel for the company or</p> <p>13 the company itself.</p> <p>14 Q. Previously I showed you the</p> <p>15 application -- the continuing membership</p> <p>16 application which talked about what it stated</p> <p>17 was the -- that Alexander Capital would do</p> <p>18 concerning disclosures and registration</p> <p>19 statements in which it participated, and I</p> <p>20 also -- and we discussed best practices</p> <p>21 regarding that. Now, in regards to this</p> <p>22 comment letter of November 10th, which is</p> <p>23 noting that there's a continuation of an</p> <p>24 omission of disclosure from previous</p> <p>25 submissions, and a direction to add back the</p>	<p style="text-align: right;">Page 316</p> <p>1 Rocco Guidici Pietro</p> <p>2 practices?</p> <p>3 A. When I was referring to "best</p> <p>4 practices," it was for us, for our customers,</p> <p>5 retail customers, not -- I didn't include the</p> <p>6 registration statement or the issue</p> <p>7 information. It's information that we</p> <p>8 provide to our customers. Our best practice</p> <p>9 is to try to make sure it's as accurate as</p> <p>10 possible, but no obligation or rules to do</p> <p>11 that.</p> <p>12 Q. Okay. Well, you said as to your</p> <p>13 retail customers, you mean selling of</p> <p>14 securities for retail customers? Is that</p> <p>15 what you are saying?</p> <p>16 A. Yes, after we can sell, after it's</p> <p>17 effective.</p> <p>18 Q. Okay. You understood that best</p> <p>19 practices meant you should be honest with the</p> <p>20 customer on whose behalf you are selling</p> <p>21 these securities; is that correct?</p> <p>22 A. Yes.</p> <p>23 Q. Regarding the underwriting of an</p> <p>24 offering by Alexander Capital, did you</p> <p>25 understand that there were any best practices</p>

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<p style="text-align: right;">Page 317</p> <p>1 Rocco Guidici Pietro</p> <p>2 regarding Alexander Capital's conduct</p> <p>3 regarding checking to see if the disclosures</p> <p>4 were full and complete and truthful?</p> <p>5 A. No.</p> <p>6 Q. So you believed -- you had an</p> <p>7 understanding in 2015 that Alexander Capital</p> <p>8 -- that best practices required Alexander</p> <p>9 Capital to be honest after an offering went</p> <p>10 public, but that you had no understanding</p> <p>11 that Alexander Capital, in accordance with</p> <p>12 best practices, had any requirement to tell</p> <p>13 -- to ensure the integrity of any disclosures</p> <p>14 in a registration statement in which it was</p> <p>15 the intended underwriter? Is that what you</p> <p>16 are saying?</p> <p>17 MR. WARD: Objection;</p> <p>18 compound, misleading, and</p> <p>19 argumentative.</p> <p>20 MR. SCHLICHTMANN: I don't</p> <p>21 think it's any of those things.</p> <p>22 Q. But did you understand the</p> <p>23 question, Mr. Guidici Pietro? I will repeat</p> <p>24 it or restate it, if you don't.</p> <p>25 A. Sure, restate the question, so I</p>	<p style="text-align: right;">Page 319</p> <p>1 Rocco Guidici Pietro</p> <p>2 requirement, either under the rules and</p> <p>3 regulations of the SEC or FINRA, or in</p> <p>4 accordance with best practices, that it had</p> <p>5 any requirement regarding any of those things</p> <p>6 -- rules and regulations of FINRA, rules and</p> <p>7 regulations of the SEC, or in accordance with</p> <p>8 best practices, as of 2015, that Alexander</p> <p>9 Capital had any requirement to review and</p> <p>10 determine -- make a determination that the</p> <p>11 disclosures in that registration statement</p> <p>12 that were intend to be publicly filed, were</p> <p>13 accurate, complete, and truthful?</p> <p>14 A. I am not aware of any regulations</p> <p>15 or requirements that is on Alexander to make</p> <p>16 sure that they are correct.</p> <p>17 Q. And is that also true about best</p> <p>18 practices, you are not aware of any best</p> <p>19 practices that would have required Alexander</p> <p>20 Capital to ensure the integrity of any</p> <p>21 disclosures in a registration statement that</p> <p>22 was being intended to be filed publicly in</p> <p>23 which Alexander Capital was the intended</p> <p>24 underwriter?</p> <p>25 A. I don't know of -- I am not aware</p>
<p style="text-align: right;">Page 318</p> <p>1 Rocco Guidici Pietro</p> <p>2 can make sure I answer it correctly.</p> <p>3 Q. Okay. All right. If I understand</p> <p>4 your testimony correctly, you understood, in</p> <p>5 2015, that there was best practices that</p> <p>6 required Alexander Capital to deal honestly</p> <p>7 with customers in a -- who were involved in a</p> <p>8 public offering, after it went public; is</p> <p>9 that correct?</p> <p>10 A. Yes, after it goes public.</p> <p>11 Q. Okay. Did you have any</p> <p>12 understanding of any kind as to whether there</p> <p>13 were any best practices, as of July 15th,</p> <p>14 that required Alexander Capital to ensure</p> <p>15 that the disclosures in a registration</p> <p>16 statement, in which it was the intended</p> <p>17 underwriter, prior to its going effective,</p> <p>18 were complete, honest, truthful?</p> <p>19 A. I don't believe it's any obligation</p> <p>20 on Alexander. The obligation is on the</p> <p>21 issuer and its counsel.</p> <p>22 Q. Now, regarding the filing -- the</p> <p>23 public filing of a registration statement, is</p> <p>24 your answer the same, that it was not your</p> <p>25 understanding that Alexander Capital had any</p>	<p style="text-align: right;">Page 320</p> <p>1 Rocco Guidici Pietro</p> <p>2 of any requirements to do that.</p> <p>3 Q. In accordance with best practices?</p> <p>4 A. Yes. Again, I believe it's on the</p> <p>5 issuer that files it with the SEC, they</p> <p>6 require to be accurate and true.</p> <p>7 Q. And are you aware of the fact that</p> <p>8 between November 9th and November 10th of</p> <p>9 2015, that, in fact, there was a switch from</p> <p>10 a firm commitment offering to a best efforts</p> <p>11 offering, and that a best efforts offering</p> <p>12 was actually filed on November 10th, as</p> <p>13 opposed to a firm commitment offering,</p> <p>14 regarding the Alterix/Inpellis offering?</p> <p>15 A. No, I was not.</p> <p>16 Q. And is -- was it your understanding</p> <p>17 that if Alexander Capital -- that -- was it</p> <p>18 your understanding, in 2015, as to whether or</p> <p>19 not a last minute switch over a 24-hour</p> <p>20 period was in -- from a firm commitment to a</p> <p>21 best efforts filing, was in accordance with</p> <p>22 the best practices, as you understood them to</p> <p>23 be in 2015?</p> <p>24 A. Yes, I don't see any issue with</p> <p>25 that.</p>

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<p style="text-align: right;">Page 321</p> <p>1 Rocco Guidici Pietro</p> <p>2 Q. Was it your understanding that if</p> <p>3 an offering that was a firm commitment</p> <p>4 offering is switched to a best efforts</p> <p>5 offering, that that would require a --</p> <p>6 changes to the offering that would be</p> <p>7 throughout the offering?</p> <p>8 Was that your understanding or you</p> <p>9 didn't have such an understanding?</p> <p>10 A. I am not familiar with the</p> <p>11 procedure. I don't know if it's just in one</p> <p>12 spot or anywhere else, no.</p> <p>13 Q. All right. I have no further</p> <p>14 questions. Thank you very much.</p> <p>15 THE VIDEOGRAPHER: Can you</p> <p>16 unshare your screen, sir?</p> <p>17 MR. SCHLICHTMANN: I am</p> <p>18 sorry, I will.</p> <p>19 THE VIDEOGRAPHER: Thank</p> <p>20 you.</p> <p>21 THE REPORTER: Can we take a</p> <p>22 short break before you start,</p> <p>23 Mr. Ward?</p> <p>24 MR. WARD: Sure.</p> <p>25 THE VIDEOGRAPHER: Going off</p>	<p style="text-align: right;">Page 323</p> <p>1 Rocco Guidici Pietro</p> <p>2 Do you recall that?</p> <p>3 A. Yes, I do.</p> <p>4 Q. Have you had a chance to think that</p> <p>5 over? Has anything occurred to you in that</p> <p>6 regard?</p> <p>7 A. Yes.</p> <p>8 Q. What is that?</p> <p>9 A. If they were to ask somebody at</p> <p>10 Alexander Capital if we could do it, if they</p> <p>11 didn't have the knowledge, they could find</p> <p>12 out if we were able to, if we were approved</p> <p>13 to do it or not.</p> <p>14 Q. When you are saying, "they would</p> <p>15 have found out," to whom are you referring?</p> <p>16 A. I am saying if the company would</p> <p>17 have asked one of the Alexander employees, if</p> <p>18 we were able to do firm commitment</p> <p>19 underwriting, that they would be able to --</p> <p>20 if they didn't know the answer, they would be</p> <p>21 able to find out from us.</p> <p>22 Q. Are you saying the person at</p> <p>23 Alexander Capital they would contact would be</p> <p>24 able to get that information?</p> <p>25 A. Yes, they would be able to get that</p>
<p style="text-align: right;">Page 322</p> <p>1 Rocco Guidici Pietro</p> <p>2 the record. The time is 6:01.</p> <p>3 (Whereupon, a recess was</p> <p>4 taken at this time.)</p> <p>5 THE VIDEOGRAPHER: We are</p> <p>6 now back on the record. The time</p> <p>7 is 6:10.</p> <p>8 EXAMINATION BY</p> <p>9 MR. WARD:</p> <p>10 Q. Thank you. Mr. Guidici Pietro, you</p> <p>11 had testified earlier about the need for</p> <p>12 FINRA approval when a member firm has a</p> <p>13 change in ownership. Is it true for every</p> <p>14 change in ownership that FINRA approval was</p> <p>15 required?</p> <p>16 A. No, it's not required for every</p> <p>17 change in ownership.</p> <p>18 Q. Okay. So that would apply only to</p> <p>19 certain changes of ownership of member firms?</p> <p>20 A. That's correct.</p> <p>21 Q. You had testified earlier about not</p> <p>22 remembering or knowing where Alterix could</p> <p>23 have gone to get information about Alexander</p> <p>24 Capital's ability to handle firm commitment</p> <p>25 underwriting.</p>	<p style="text-align: right;">Page 324</p> <p>1 Rocco Guidici Pietro</p> <p>2 information.</p> <p>3 Q. You had referred -- well, we've</p> <p>4 seen references to you and Mr. Amato as</p> <p>5 owners of Alexander Capital. Are you now or</p> <p>6 have you ever been an owner of Alexander</p> <p>7 Capital?</p> <p>8 A. No, I have not.</p> <p>9 Q. When we see references to you as</p> <p>10 somehow an owner of Alexander Capital, to</p> <p>11 your understanding, what is that referring</p> <p>12 to?</p> <p>13 A. Indirect ownership through Nesa</p> <p>14 Management.</p> <p>15 Q. That is the sole way in which you</p> <p>16 could be considered to have any ownership of</p> <p>17 Alexander Capital; is that right?</p> <p>18 A. That's correct.</p> <p>19 Q. Are you now or have you ever been a</p> <p>20 partner in Alexander Capital?</p> <p>21 A. No, I have not.</p> <p>22 Q. I have nothing further.</p> <p>23 BY MR. SCHLICHTMANN:</p> <p>24 Q. Mr. Guidici Pietro, regarding the</p> <p>25 need for FINRA approval, is it -- was it your</p>

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<p style="text-align: right;">Page 325</p> <p>1 Rocco Guidici Pietro</p> <p>2 understanding in 2014 and 2015, and to this</p> <p>3 day, that FINRA approval was necessary if</p> <p>4 there was a change in ownership greater than</p> <p>5 25 percent? Is that your understanding?</p> <p>6 A. Yes, greater than 25 percent.</p> <p>7 Q. Change in ownership less than 25</p> <p>8 percent did not require FINRA approval; is</p> <p>9 that your understanding then and now?</p> <p>10 A. Yes, correct.</p> <p>11 Q. You were asked some questions about</p> <p>12 the fact that if somebody wanted to know if</p> <p>13 Alexander Capital had firm commitment</p> <p>14 authority in 2014 and 2015, that they could</p> <p>15 find out by talking to someone at Alexander</p> <p>16 Capital; is that correct?</p> <p>17 A. Yes.</p> <p>18 Q. To your knowledge, who at Alexander</p> <p>19 Capital, in 2014 and 2015, would have the</p> <p>20 knowledge as to whether or not Alexander</p> <p>21 Capital had the authority under its FINRA</p> <p>22 membership to conduct a firm commitment</p> <p>23 offering?</p> <p>24 A. I can only speak for myself. I had</p> <p>25 the knowledge.</p>	<p style="text-align: right;">Page 327</p> <p>1 Rocco Guidici Pietro</p> <p>2 of ownership of Alterix. Your ownership and</p> <p>3 Mr. Amato's ownership, your testimony is,</p> <p>4 comes through --</p> <p>5 MR. WARD: You just said</p> <p>6 "Alterix." I think you meant</p> <p>7 "Alexander Capital."</p> <p>8 MR. SCHLICHTMANN: Sorry.</p> <p>9 Thank you. It's late in the day.</p> <p>10 Thank you for correcting me.</p> <p>11 Q. You were asked some questions about</p> <p>12 the ownership of Alexander Capital; is that</p> <p>13 correct?</p> <p>14 A. Yes.</p> <p>15 Q. And is it your testimony that the</p> <p>16 ownership of Alexander Capital that you have</p> <p>17 comes through your ownership of Nesa,</p> <p>18 N-E-S-A, Management, LLC; is that correct?</p> <p>19 A. Yes, that's correct.</p> <p>20 Q. And during 2014 and 2015, is the</p> <p>21 same answer true as of 2014 and 2015, that</p> <p>22 any ownership interest that you had in</p> <p>23 Alexander Capital was through your ownership</p> <p>24 interest in Nesa Management, LLC?</p> <p>25 A. Yes, correct.</p>
<p style="text-align: right;">Page 326</p> <p>1 Rocco Guidici Pietro</p> <p>2 Q. Okay. Do you know if Mr. Stack had</p> <p>3 the knowledge?</p> <p>4 A. I don't know.</p> <p>5 Q. Do you know if Mr. Gazdak had the</p> <p>6 knowledge?</p> <p>7 A. I don't know.</p> <p>8 Q. Do you know if Mr. Carlin had the</p> <p>9 knowledge?</p> <p>10 A. I don't.</p> <p>11 Q. And during the entire period 2014</p> <p>12 to 2015, did you have any communications</p> <p>13 directly or indirectly with anyone</p> <p>14 representing Alterix or Inpellis about</p> <p>15 whether Alexander Capital had firm commitment</p> <p>16 authority from FINRA or not?</p> <p>17 A. I did not.</p> <p>18 Q. And are you aware as to whether Mr.</p> <p>19 Gazdak, Mr. Carlin, or Mr. Stack had any</p> <p>20 communications with anyone from Alterix or</p> <p>21 Inpellis, regarding whether Alexander Capital</p> <p>22 had authorization from FINRA to conduct a</p> <p>23 firm commitment offering?</p> <p>24 A. I do not.</p> <p>25 Q. And you were asked some questions</p>	<p style="text-align: right;">Page 328</p> <p>1 Rocco Guidici Pietro</p> <p>2 Q. And during that period it was your</p> <p>3 understanding that Nesa Management, LLC was a</p> <p>4 managing partner of Alexander Capital, LP; is</p> <p>5 that correct?</p> <p>6 A. It was a -- it was a minority</p> <p>7 partner.</p> <p>8 Q. Right, it was -- but a minority</p> <p>9 partner that was engaged in the management of</p> <p>10 Alexander Capital, LP; is that correct,</p> <p>11 during 2014 and 2015?</p> <p>12 A. It was operating as Alexander</p> <p>13 Capital.</p> <p>14 Q. Right, but were you aware during</p> <p>15 2014 and 2015, as to whether any other</p> <p>16 partner in Alexander Capital was conducting</p> <p>17 management of the -- of Alexander Capital,</p> <p>18 LP, other than Nesa Management, LLC?</p> <p>19 A. No, no other partner was.</p> <p>20 Q. And were you aware -- what was your</p> <p>21 understanding as to how Nesa Management, LLC</p> <p>22 performed its management responsibilities?</p> <p>23 Through whom did it do that?</p> <p>24 A. Well, I was going to clarify that a</p> <p>25 little bit. Nesa Management can't operate a</p>

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<p style="text-align: right;">Page 329</p> <p>1 Rocco Guidici Pietro</p> <p>2 broker-dealer. You have to be licensed. So</p> <p>3 Joe -- myself and Joseph Amato were operating</p> <p>4 the broker-dealer with our FINRA licenses.</p> <p>5 Has nothing to do with the ownership that</p> <p>6 Nesa had with Alexander Capital.</p> <p>7 Q. Okay, and but -- but you consider</p> <p>8 that Nesa Management was the managing partner</p> <p>9 of Alexander Capital during 2014 and 2015; is</p> <p>10 that correct?</p> <p>11 A. No, it wasn't managing the firm.</p> <p>12 The corporation can't manage it. It was an</p> <p>13 owner of the firm.</p> <p>14 Q. The people who were managing, the</p> <p>15 ultimate managers were yourself and Mr. Amato</p> <p>16 during 2014 and 2015; is that correct?</p> <p>17 A. We had other individuals under us</p> <p>18 that were managing the firm also.</p> <p>19 Q. Yeah, under you. But you were the</p> <p>20 two at the top, you and Mr. Amato?</p> <p>21 A. Right, but we designated all the</p> <p>22 duties to other personnel.</p> <p>23 Q. Correct, and we discussed that.</p> <p>24 Thank you.</p> <p>25 So is it fair to say that any</p>	<p style="text-align: right;">Page 331</p> <p>1 Rocco Guidici Pietro</p> <p>2 THE VIDEOGRAPHER: The time</p> <p>3 is 6:20. This now concludes the</p> <p>4 video conference deposition of</p> <p>5 Rocco Guidici Pietro. At this time</p> <p>6 we ask that all parties stay</p> <p>7 connected briefly to provide your</p> <p>8 transcript and/or video order to</p> <p>9 the court reporter.</p> <p>10 Mr. SCHLICHTMANN, would you</p> <p>11 like to order video?</p> <p>12 MR. SCHLICHTMANN: I do, and</p> <p>13 I also want a rough.</p> <p>14 THE VIDEOGRAPHER: Would you</p> <p>15 like that synched with the</p> <p>16 transcript?</p> <p>17 MR. SCHLICHTMANN: Yes.</p> <p>18 THE VIDEOGRAPHER: Thank</p> <p>19 you. Mr. Ward?</p> <p>20 MR. WARD: Same thing,</p> <p>21 please.</p> <p>22 MR. SCHLICHTMANN:</p> <p>23 Transcript and synched video?</p> <p>24 MR. WARD: I don't need the</p> <p>25 synched video, but the transcript,</p>
<p style="text-align: right;">Page 330</p> <p>1 Rocco Guidici Pietro</p> <p>2 management of Alexander Capital that occurred</p> <p>3 in 2014 to 2015, was through you and Mr.</p> <p>4 Amato, as the ultimate managers of the firm</p> <p>5 during that period; is that correct?</p> <p>6 A. Not completely. The chief</p> <p>7 compliance officer has a large responsibility</p> <p>8 for operating the firm.</p> <p>9 Q. Right, but he is superior -- he is</p> <p>10 inferior to you, is that correct, was during</p> <p>11 that time?</p> <p>12 A. In certain aspects he is not.</p> <p>13 We're not allowed to deter him, we are not</p> <p>14 allowed to do certain things with a chief</p> <p>15 compliance officer.</p> <p>16 Q. All right. I have no further</p> <p>17 questions. Thank you very much. I</p> <p>18 appreciate it.</p> <p>19 MR. WARD: Nothing further</p> <p>20 from me.</p> <p>21 THE VIDEOGRAPHER: Okay,</p> <p>22 let's go off the record one moment.</p> <p>23 The time is 6:19. Please stand by.</p> <p>24 (Whereupon, a recess was</p> <p>25 taken at this time.)</p>	<p style="text-align: right;">Page 332</p> <p>1 Rocco Guidici Pietro</p> <p>2 and the rough.</p> <p>3 THE VIDEOGRAPHER: Okay,</p> <p>4 thank you. We are now going off</p> <p>5 the record on September 29, 2021,</p> <p>6 at 6:21 p.m.</p> <p>7 -oOo-</p> <p>8 (Whereupon, the examination</p> <p>9 of ROCCO GUIDICIPIETRO was</p> <p>10 adjourned at 6:21 p.m.)</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15 ROCCO GUIDICIPIETRO</p> <p>16</p> <p>17</p> <p>18 Subscribed and sworn to</p> <p>19 before me this day</p> <p>20 of , 2021.</p> <p>21</p> <p>22</p> <p>23 NOTARY PUBLIC</p> <p>24</p> <p>25</p>

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<p style="text-align: right;">Page 333</p> <p>1</p> <p>2 ----- I N D E X -----</p> <p>3</p> <p>4 WITNESS EXAMINATION BY PAGE</p> <p>5 ROCCO GUIDICIPIETRO</p> <p>6 MR. SCHLICHTMANN 7, 324</p> <p>7 MR. WARD 322</p> <p>8</p> <p>9 ----- EXHIBITS -----</p> <p>10 PLAINTIFF'S FOR ID.</p> <p>11 EXHIBIT 132 Chart premarked</p> <p>12 EXHIBIT 28 Certification premarked</p> <p>13 EXHIBIT 182 Amended Cert. premarked</p> <p>14 EXHIBIT 181 Document premarked</p> <p>15 EXHIBIT 54 E-mails premarked</p> <p>16 EXHIBIT 59 E-mail premarked</p> <p>17 EXHIBIT 142 E-mail premarked</p> <p>18 EXHIBIT 142A Application premarked</p> <p>19 EXHIBIT 143 E-mail premarked</p> <p>20 EXHIBIT 143A FINRA Letter premarked</p> <p>21 EXHIBIT 135 Application premarked</p> <p>22 EXHIBIT 129 Letter premarked</p> <p>23 EXHIBIT 161 Certification premarked</p> <p>24 EXHIBIT 127 FINRA Letter premarked</p> <p>25 (Exhibits continued.)</p>	<p style="text-align: right;">Page 335</p> <p>1</p> <p>2 C E R T I F I C A T E</p> <p>3</p> <p>4 STATE OF NEW YORK)</p> <p> : ss.</p> <p>5 COUNTY OF NEW YORK)</p> <p>6</p> <p>7 I, AYDIL M. TORRES, a Notary Public</p> <p>8 within and for the State of New York, do</p> <p>9 hereby certify:</p> <p>10 That ROCCO GUIDICIPIETRO, the witness</p> <p>11 whose deposition is hereinbefore set forth,</p> <p>12 was duly sworn by me and that such deposition</p> <p>13 is a true record of the testimony given by</p> <p>14 the witness.</p> <p>15 I further certify that I am not</p> <p>16 related to any of the parties to this action</p> <p>17 by blood or marriage, and that I am in no way</p> <p>18 interested in the outcome of this matter.</p> <p>19 IN WITNESS WHEREOF, I have hereunto</p> <p>20 set my hand this 29th day of September, 2021.</p> <p>21</p> <p>22</p> <p>23</p> <p>24 AYDIL M. TORRES</p> <p>25</p>
<p style="text-align: right;">Page 334</p> <p>1</p> <p>2 ----- EXHIBITS -----</p> <p>3 PLAINTIFF'S FOR ID.</p> <p>4 EXHIBIT 147 Report premarked</p> <p>5 EXHIBIT 148 Report premarked</p> <p>6 EXHIBIT 149 Report premarked</p> <p>7 EXHIBIT 32 Order premarked</p> <p>8 EXHIBIT 29 Report premarked</p> <p>9 EXHIBIT 154 Agreement premarked</p> <p>10 EXHIBIT 34 Statement premarked</p> <p>11 EXHIBIT 31 S-1 premarked</p> <p>12 EXHIBIT 130 E-mail premarked</p> <p>13 EXHIBIT 131 Letter premarked</p> <p>14 (Exhibits retained by attorney.)</p> <p>15 -----</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 336</p> <p>1</p> <p>2 D E P O S I T I O N E R R A T A S H E E T</p> <p>3</p> <p>4 Our Assignment No. J7461932</p> <p>5 Case Caption: JOHN T. AQUINO, CH 7 vs.</p> <p>6 ALEXANDER CAPITAL, LP, ET. AL</p> <p>7 D E C L A R A T I O N U N D E R P E N A L T Y O F P E R J U R Y</p> <p>8 I declare under penalty of perjury</p> <p>9 That I have read the entire transcript of</p> <p>10 My Deposition taken in the captioned matter</p> <p>11 Or the same has been read to me, and</p> <p>12 The same is true and accurate, save and</p> <p>13 Except for changes and/or corrections, if</p> <p>14 Any, as indicated by me on the DEPOSITION</p> <p>15 ERRATA SHEET hereof, with the understanding</p> <p>16 That I offer these changes as if still under</p> <p>17 Oath.</p> <p>18 _____</p> <p>19 R O C C O G U I D I C I P I E T R O</p> <p>20 Subscribed and sworn to on the _____ day of</p> <p>21 _____, 20____ before me,</p> <p>22</p> <p>23 _____</p> <p>24 Notary Public,</p> <p>25 In and for the State of _____</p>

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<p>Page 337</p> <p>1</p> <p>2 DEPOSITION ERRATA SHEET</p> <p>3 Page No. _____ Line No. _____ Change</p> <p>4 to: _____</p> <p>5 _____</p> <p>6 Reason for</p> <p>7 change: _____</p> <p>8 Page No. _____ Line No. _____ Change</p> <p>9 to: _____</p> <p>10 _____</p> <p>11 Reason for</p> <p>12 change: _____</p> <p>13 Page No. _____ Line No. _____ Change</p> <p>14 to: _____</p> <p>15 _____</p> <p>16 Reason for</p> <p>17 change: _____</p> <p>18 Page No. _____ Line No. _____ Change</p> <p>19 to: _____</p> <p>20 _____</p> <p>21 Reason for</p> <p>22 change: _____</p> <p>23 SIGNATURE: _____ DATE: _____</p> <p>24 ROCCO GUIDICIPIETRO</p> <p>25</p>	<p>Page 338</p> <p>1</p> <p>2 DEPOSITION ERRATA SHEET</p> <p>3 Page No. _____ Line No. _____ Change</p> <p>4 to: _____</p> <p>5 _____</p> <p>6 Reason for</p> <p>7 change: _____</p> <p>8 Page No. _____ Line No. _____ Change</p> <p>9 to: _____</p> <p>10 _____</p> <p>11 Reason for</p> <p>12 change: _____</p> <p>13 Page No. _____ Line No. _____ Change</p> <p>14 to: _____</p> <p>15 _____</p> <p>16 Reason for</p> <p>17 change: _____</p> <p>18 Page No. _____ Line No. _____ Change</p> <p>19 to: _____</p> <p>20 _____</p> <p>21 Reason for</p> <p>22 change: _____</p> <p>23 SIGNATURE: _____ DATE: _____</p> <p>24 ROCCO GUIDICIPIETRO</p> <p>25</p>
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